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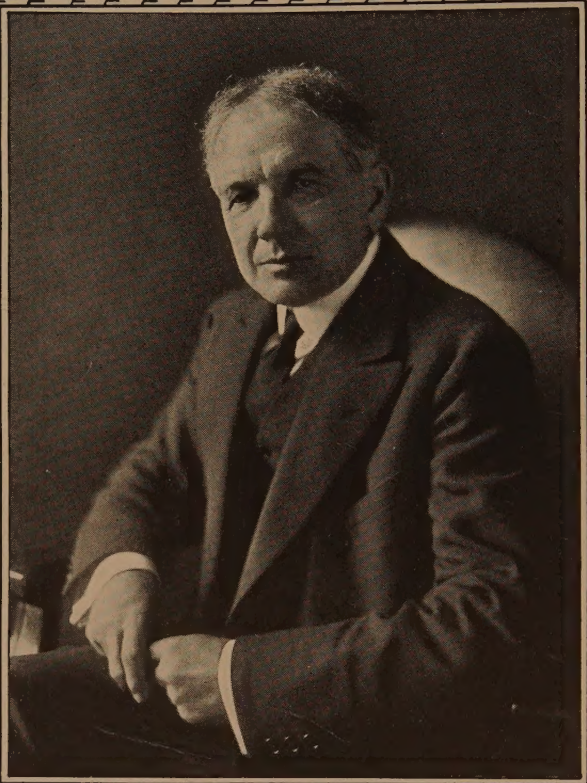

W. C. Durant

"FOR THE BEST AND MOST PRACTICABLE PLAN TO MAKE THE 18TH AMENDMENT EFFECTIVE"

LAW OBSERVANCE

SHALL THE PEOPLE OF THE UNITED STATES UPHOLD THE CONSTITUTION

EDITED BY

W. C. DURANT

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INTRODUCTION

By W. C. DURANT

INTRODUCTION

By W. C. DURANT

THIS book presents some of the fruits of the Durant Prize Contest "for the best and most practicable plan to make the 18th Amendment effective."

Herein I have collected the plans submitted by over a hundred law enforcers: judges, district attorneys, prohibition administrators, policemen, governors, police chiefs, justices of the peace, coast guard captains, under-cover agents and a dozen other types of men and women actually engaged in enforcing the prohibition laws. Their contributions are the result of years of thought based on thousands of personal experiences in the public service.

My collaborators are, as it were, delegates from thirty-seven states and Hawaii and Alaska. The list includes 34 public officials in the service of the United States, 23 state officials, 15 county officials, 30 town and city officials.

If these men could have been gathered in a convention to discuss the subject of prohibition enforcement, it would have been hailed as a great national event. Just such a convention has been held within the covers of this book. The addresses delivered are herewith collected and published.

These contributors are not theorists but hard-headed officials up against the daily difficulties of enforcing this law. They represent all sections of the country, all types of men, all ages from a 93-year-old policeman in Nevada to the young son of a sheriff in North Carolina. Their conclusions constitute a referendum on "what to do about prohibition," answered by a great body of expert opinion. In their carefully reasoned analyses of the most critical situation that confronts the country today, they do their countrymen a service.

The reader will find agreement as to the graft that still honeycombs the prohibition service, federal and state alike.

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He will hear of wet judges, wet district attorneys, wet jurors, wet "prominent citizens," lack of co-ordination of the branches of the federal service, lack of co-ordination of federal and state enforcement, weak and ineffective laws with respect to apprehending prohibition offenders and punishing them.

Nevertheless, unless I am mistaken, the reader will come to no pessimistic conclusion when he lays the book aside. He will find that the men who know best about prohibition enforcement are by no means discouraged. They believe in the need for the law. They see progress. They have learned from mistakes. They tell how these mistakes can be avoided.

Only the uninformed can believe that there is any single "plan" or panacea for the prohibition problem. The solution lies rather in the assembled thought of the sincere and intelligent workers in the field, backed by the better element of our citizenry who want our laws observed. The solution is furthered by collaboration such as is offered by the authors of the chapters in this book.

Origin of Prize Offer

Last August, before sailing for Europe, it became necessary for me to renew my passport, and in making application therefor I was required to take the usual oath of allegiance by which I promised to support and defend the Constitution of the United States against all enemies, foreign **and domestic.**

On my way across, my thoughts reverted to our country's greatest **domestic** enemy, the bootlegger. I knew that the bootlegger, **our country's greatest enemy,** was so systematically organized and protected that he could, with perfect confidence and with absolute security, traffic in death-dealing and health-destroying poisons. I knew that the bootlegger, **our country's greatest enemy,** recognized no law and would stop at nothing to gain his ends.

I knew that government agents were subsidized and witnesses intimidated by the bootlegger, **our country's greatest enemy,** and that this large criminal class was being encouraged and supported by honest, decent men and women of America, otherwise law-abiding. I feared that unless

something were done the situation would get beyond control, and while I did not wish to pose as a reformer, I submitted the prize offer in the hope that public interest might be aroused and a great national movement inaugurated that would to some extent correct the distressing and dangerous conditions existing.

So on my arrival in Paris on August 27, I cabled the prize offer to this country and it was widely published in the press. I secured the services of a committee of fifteen men and women of national prominence and unquestioned integrity to pass upon the plans submitted. The membership of the committee was as follows:

Jane Addams, Hull House Social Settlement..Chicago, Ill.
Dr. William H. Allen, Director, Institute for Public Service.....New York
U. S. Senator William E. Borah.....Idaho
Bruce Barton, Author and Advertising Specialist, ...New York
George Gordon Battle, Attorney.....New York
Dr. S. Parkes Cadman, Minister, Editor, Radio Teacher, ...Brooklyn, N. Y.
U. S. Senator Carter Glass.....Virginia
Major Gen. James G. Harbord, President Radio Corporation of America.....New York
William G. McAdoo, former Secretary of the Treasury, ...Los Angeles
Robert L. Owen, former U. S. Senator.....Oklahoma
Owen Roberts, Attorney.....Philadelphia
Elmer Schlesinger, Attorney.....New York
Dr. W. O. Thompson, President Emeritus, Ohio State University.
G. P. Whaley, President Vacuum Oil Company.New York
Dr. Stephen S. Wise, Rabbi and Lecturer.....New York

The Response

The stupendous response indicated the vital interest of all classes of the country in the question of prohibition enforcement. When the lists closed on December 1st, the Grand Prize competition had 23,230 contestants, from every state in the Union, every territorial possession and scores of foreign lands. In addition, plans were submitted from

194 high schools, representing 41 states in the Union. Since, under the rules, only one plan could be submitted by a high school, each of them represented the winner of a local elimination contest.

The Grand Prize of $25,000 was awarded by the judges to Major Chester P. Mills, formerly prohibition administrator for New York City. The $5,000 School Prize was won by the Palo Alto Union High School. By the terms of the award, $4,000 of it went to the school and $1,000 to the author of the prize essay, Malcolm D. Almack, a 15-year-old high school junior, son of Prof. John C. Almack of Stanford University's Department of Education.

A country-wide discussion, pro and con, has arisen as to the merits of Major Mills' plan. His proposal, while touching on presidential leadership, citizen law observance, political interference, diversity of local problems, publicity of current facts regarding illicit liquor sources and performance of enforcement officials, and over twenty other elements of the situation, laid special emphasis upon the control of the diversion of industrial alcohol into beverage use.

Many of the comments on the Mills plan are based upon the unfair assumption that it deals alone with diversion of industrial alcohol. Control of this, as a matter of fact, was developed by Major Mills in detail as an illustration of what could be done to devise similar control of other chief sources of liquor supply. That industrial alcohol is a very real problem to the Prohibition Bureau is abundantly proved by expert testimony in this volume. I am informed that the Prohibition Bureau finds control of this source of illicit liquor a difficulty in twelve states which contain sixty per cent of the country's population.

Meanwhile, as the Mills controversy continued, I rested content in the reflection that the purpose of my offer was not to produce a prize winner but to produce a contest. I got one. The press and public have taken it up at the point where the 23,230 original contestants left off. Major Mills' plan has assumed its rightful place as a useful contribution to the determined efforts of a people to solve the greatest of their problems in the march towards self-control and self-development.

Many of the plans submitted in the contest, such as those of Governor Pinchot and Richmond Pearson Hobson, were printed throughout the country. The representatives of 28 newspapers came to the Durant Award Offices, and each newspaper prepared and printed a summary of the plans produced in its state. Hundreds of plans were reprinted in the local papers of the contestants, often followed by public discussion and editorial comments. Twenty-five plans, and much data concerning contributors and contest, were reprinted in the Congressional Record of Jan. 11, 1929, introduced by Senator Wesley L. Jones of Washington.

Finally, William Randolph Hearst, in a telegram to my office on January 1, 1929, made the public offer of a prize of $25,000 "for the best plan to repeal the 18th Amendment and substitute in place of prohibition a more liberal and more American measure." This specification was later changed slightly, so that the Hearst prize was offered "for the best plan to achieve temperance." I telegraphed to Mr. Hearst my congratulations for the public service he has done in joining my effort to elicit and clarify the nation's thought on this matter. The telegrams between Mr. Hearst and me are reprinted in the Appendix.

Shall We Obey the Law?

The answer to the question "Shall we enforce and obey the law and the Constitution?" is not a hard one. It is simply a matter of getting the honest citizens of this country to face and discuss that question. When this is done, we are half way advanced towards its solution.

The other half of the way will be covered when the country is given a reorganization of prohibition law enforcement and leadership towards prohibition law observance which we have a right to expect from Washington and which, I am convinced, we shall get from President Hoover. He has announced that there will be a searching investigation of the facts and abuses in enforcement.

To those charged with that investigation I respectfully commend the contents of this volume. I believe that it will shorten their labors.

The experiences of this contest have convinced me more

strongly that ever that the people upon whom our country depends for happiness and prosperity are determined that the bootlegger, **our country's greatest enemy,** must go. Letters, telegrams, telephonic personal messages from leading business men, leaders of popular thought and citizens of all classes, from the most distinguished to the most obscure, have strengthened my confidence that a nation reared on "Don't give up the ship," "I have just begun to fight," "Millions for defense but not one cent for tribute," will never yield to bootleggers, hijackers and official lawbreakers.

The United States has taken the lead in this, the greatest reform in human institutions since slavery. No other people could have gone as far forward as we have already gone. We are not going to either retreat or fail.

Responsibility of Business Men

One more personal word. In my prize offer of August 27, 1928, I said:

> "For the widespread disobedience to the liquor law as embodied in the Constitution the business leaders of the country are very largely responsible. Had our business leaders frowned upon bootlegging instead of encouraging it, had they observed the law and encouraged its observance, had they raised their voices in protest of public and private violations, had they used their money and their influence to obtain a fair trial for one of the best measures ever adopted by this or any other country—in other words, if they had supported the Constitution of the United States—our public officials (including our judges), our children, our servants, our employees and the thinking public generally would without question have caught the spirit of law observance—a very necessary requisite if we are to have a safe and permanent government.
>
> "Bootleg liquor has become the most widely advertised factor in the social life of men whose names are synonymous with success, wealth and power in their communities. The contagion of their lawlessness spreads through the entire population. This means impairment of the carefully built safeguards

of personal and property rights. Business leaders, who have the largest stake in law observance, set the example for law defiance."

By that statement I still stand. If business leaders obey only the laws which suit them, others who have less at stake than we will claim the same privilege. It is the philosophy of crime. By its development no class will suffer so much as we. Its logical outcome is anarchy.

Nothing in this book stands out more clearly than the indictment of law-breaking business and social leaders by law enforcers. We have led in discrediting the law. We must lead in restoring respect for it. I believe the time is ripe for business men to create a national citizen organization for law observance. The form this organization is to take should await the plans of the President.

In passing judgment upon the status of prohibition it is well to remember that its disregard is part of the general problem of lawlessness in the country. Organization to make the 18th Amendment effective should be joined to organization to make the rest of the country's laws enforced and obeyed.

It now becomes the writer's pleasant task, as editor, to offer a clue to the easier understanding of the rich material presented by my 102 collaborators.

Is Basis for Prohibition Sound?

There seems to be almost universal agreement that the 18th Amendment was and still is worth while. The following pages offer little encouragement to those who indulge in the delusion that unlawful drinking is a protest against governmental tyranny. Instead, the Amendment is considered as a proper exercise of social control over individual actions which, if uncontrolled, are harmful to the general welfare.

Individual liberty, we are told, must be subordinated to the common good when the stake is large enough. In general these law enforcers think that the stake—the benefits of even this present "prohibition at its worst"—is worth the sacrifice and the cost. Numerous analogies are presented of legal restrictions on "personal liberty" at first opposed and now accepted as a matter of course.

On the other hand, the reader will find plenty of patience for frail humanity in the judgments passed and the remedies proposed in this book. An age-long appetite is not extirpated by the passage of a law and nine years of half-hearted enforcement by half-wet governmental agencies. Education of the citizen, from child to man, as to the duties and benefits of prohibition law observance, is an element of nearly every plan. Maturity is not expected of a child of nine; no more should it be expected of a nine-year-old revolutionary law.

Transfer Prohibition to Department of Justice

Of the major proposals for improving prohibition enforcement, the most frequent is the plan to take enforcement away from the Treasury Department and give it to the Department of Justice.

Today the prosecuting arm of the government, the United States district attorneys, are under the Department of Justice. Cases are brought to them, ostensibly ready to try, by the Treasury's prohibition agents. An improperly prepared case must often be thrown out by the most honest district attorney; a wet prosecutor sometimes turns down the best-prepared case. Treasury and Department of Justice can now blame each other for lax enforcement. The proposal is to center in the Department of Justice responsibility for arresting law-breakers and for both preparing and prosecuting all prohibition cases.

Another reason frequently given for the shift is the greater respect in which the Department of Justice agents are held. Rightly or wrongly, prohibition agents are thoroughly disliked in certain sections of the country. Enforcement, it is felt, would appear in a new guise if entrusted to the Department of Justice. Judge F. L. Johnston, of Newport, Washington County, Ohio, says:

> "Offenders against the law would rather combat the police department of any city than know that the Secret Service of the government was on their trail. The mysterious movements of their unknown Nemesis, the effectiveness and tenacity of its agents, will turn back many a potential bootlegger. Criminals know that when the Secret Service agent starts on the trail he gets his man."

A further advantage of giving enforcement to the Department of Justice, it is claimed, would be to take prohibition laws out of the category of measures hysterically espoused or condemned. The thought is thus expressed by Harold D. Shaft, Assistant Attorney General of North Dakota:

> "If the American public could be brought to consider a prohibition law violator as simply an ordinary criminal—not a patriot nor a traitor—if by some process the psychological reaction could be developed to bring about an attitude of impartiality toward this law, if it could be made to appear to the common run of law-abiding citizens as just another criminal law, to be enforced in the same dispassionate impartial manner as other laws, much might be accomplished."

The general opinion seems to be that the coast guard, customs and border patrol have acquired fair control of liquor smuggling and that only a small proportion of the American supply now comes from this source. The Canadian border, notably in the region of Detroit, is represented as an exception to this rule. The authors urge amplification of and addition to the anti-liquor treaties we now have with certain foreign countries—particularly a treaty to cure the Canadian situation.

There is frequent reference to the wetness of Washington, the national capital, especially with respect to the liquor that leaks out of foreign embassies in that city. Some want the United States Government to notify foreign powers that the shipment of liquor to their embassies at Washington will be considered an unfriendly act. The more usual suggestion is along the lines of ex-Governor Gifford Pinchot's politer proposal:

> "If the President, following the far stronger precedent set by the British Government in the matter of slaves, should suggest to all foreign governments that he would regard it as a friendly act if they would instruct their representatives to import no more alcoholic liquors, but conform instead to the law of the country to which they are accredited, the atmosphere and attitude of official Washington respecting the 18th Amendment would change overnight."

Improve Enforcement Personnel

There is a general demand for a higher type of prohibition agent. Judge A. Monroe Thompson of the Wisconsin Supreme Court holds the inferior class of prohibition agent responsible for the bad start of prohibition enforcement:

> "A low type of enforcement officer was hired to cram this statute down the public throat. An ill-advised policy of force brought on an era of tyranny and oppression that would do credit to a czar. Many innocent persons were shot down, homes broken into illegally, patrons of hotels, restaurants and other public places, also auto tourists and pedestrians were rudely held up and subjected to embarrassing searches. Neighbor was bribed to betray neighbor. Evidence was planted in many cases to secure convictions. Inviolable rights guaranteed the citizens of the United States by its Constitution became mere scraps of paper.
>
> "The citizen will respect the law when he can respect the men enforcing it and the methods used in enforcement. He will co-operate instead of obstructing, the same as he now co-operates in apprehending the dope peddler, the counterfeiter and the mail robber."

Another viewpoint is expressed by J. R. Taylor, former prosecuting attorney, Martinsville, Virginia. He pays his compliments to certain prohibition agents as follows:

> "A weak and uncertain character, working on short pay, coming in contact with the bootlegger and his money in the night when no one knows what transpires excepting the two, and the officer knowing the bootlegger cannot give him away without exposing himself likewise, is liable to bribes, which many have shamefully taken."

There is a great deal of testimony as to the amount of graft and bribery that goes on. The fundamental reason for it is illumined by Lieut-Col. Ned M. Green, former prohibition administrator at San Francisco:

> "Another little picture—you are administrator and you send one of your $200 a month men out to do something, and before he reaches the door he meets a

man who offers him $1,000 not to do it. What is the answer?"

Political interference in appointments is given as the chief original cause of the inferior prohibition agent material, now being bettered by the new civil service law, according to the authors. To train the agents, schools and manuals are urged. To keep them straight, four measures are often found recommended in the following pages: frequent shift of station; regular but unannounced inquiry into the employee's habits, expenditures, etc., by inspectors such as watch over postal employees; heavy penalties, including imprisonment, for unfaithful public servants; requirement of a large bond for each prohibition official, to make sure that a fine, if levied against him for malfeasance or misfeasance, can be collected.

Better pay for prohibition enforcement employees is a frequent demand, particularly in the papers of federal adminstrators who handle these men. There are proposals for increased salaries, and proposals for graduated fees rewarding officials for the detection of law violation, to be provided by a portion of the fines levied.

A general complaint regarding enforcement agents is the inadequacy of their numbers. As R. Q. Merrick, formerly Prohibition Administrator of New York City, now of Virginia, South Carolina and North Carolina, says:

> "A force of only 2,400 agents has been expected to enforce the National Prohibition Act in the United States, Alaska, Hawaii and Porto Rico, whereas the city of New York has been provided with 15,000 policemen. In my territory I could practically stop violations of the National Prohibition Act if I had five times my present force of eighty men. I have 246 counties in the three states to be policed by eighty men and they can only scratch the surface."

Get State Assistance in Enforcement

The inadequate number of federal prohibition agents is represented to be particularly apparent in states which have no enforcement acts of their own, such as were intended by the concurrent clause of the 18th Amendment. In such states local officials and courts seem to be of little or no

service in enforcing the law, though the federal service is organized upon the assumption that the federal government will stamp out smuggling and major crimes of production and distribution, while the states are expected to look after local violations.

Every state and local officer, of course, is supposed to uphold and enforce the laws and Constitution of the United States. This was effectively stated by Governor Smith of New York in his memorandum of June 1, 1923, approving the repeal of the Mullen-Gage State Enforcement Act. Governor Smith said:

> "Let it be understood once and for all that this repeal does not in the slightest degree lessen the obligation of peace officers of the state to enforce in the strictest letter the Volstead Act, and warning to that effect is herein contained as coming from the chief executive of the State of New York."

It has apparently not worked out quite as Governor Smith predicted. The situation in New York state is graphically pictured by G. M. Hazelton, United States Commissioner at Gouverneur, N. Y.:

> "The prohibition office for this district has in its territory six counties or more, and at no time during the last two years have there been stationed here more than sixteen prohibition enforcement officers, and most of the time some of them were in some other district or at court, so the force is usually not over seven to ten men. It is utterly impossible for that force of men to stop illegal sales in this district.
>
> "In this same district are probably upwards of 1,000 sheriffs, deputy sheriffs and constables who do nothing at present to enforce the law. Police of some cities and villages have given some assistance. It does not need an investigation to know how effective the enforcement would be if that force of men (sheriffs, etc.), together with the police of all villages and cities and state police, were working under a state enforcement law."

The dependence of efficient federal enforcement upon local public sentiment is well illustrated by A. W. McDaniel, prohibition agent of Laurel, Mississippi:

"In some sections, where a majority of the population insists upon the enforcement of the law, the courts operate under the Internal Revenue statutes, as in Arkansas. In that state, offenders, upon conviction, are sent to the federal penitentiary.

"When one sits in the courtroom he does not have to be reminded that respect is due to the court. Respect is very evident there. The district attorney is fighting every inch contested. The prohibition department co-operates with the district attorney and marshals and it is like one family.

"Cross the line into Louisiana, which is one of our wettest states, and more in need of enforcement, and there the courts operate under the Volstead Act.

"No co-operation here. The prohibition department recommends that certain cases be prosecuted under the Internal Revenue statutes. The district attorney says 'No,' because the judge has told him he would not recognize cases filed under the Internal Revenue statutes."

Authorities seem divided as to whether real local enforcement can ever be attained by the use of federal officials. That federal officials are alone suitable to enforce prohibition is the contention of Will P. Stephenson, Judge of the Court of Common Pleas, West Union, Ohio. In local courts he finds a fatal sympathy with the violator, a sympathy that extends from judge to juror.

A view more frequently represented in these pages is that of Judge William B. Smith of Kernville, California, that "a sumptuary law must depend largely upon local officers and local courts who maintain personal touch with the citizenry."

The reader will come upon the plausible contention that every one of the 46 states which ratified the 18th Amendment assumed the moral obligation to put its police and its courts actively into the service of enforcement.

A general suggestion is that of Judge Frank C. Wiliams of Newport, Vermont, who urges that efforts be made to induce the states to enact enforcement laws, and that the states which refuse shall be cleaned up by an adequate force of federal officers.

On the other hand, Lieut. Col. Ned M. Green, former prohibition administrator at San Francisco, suggests that the federal forces be withdrawn from flagrantly wet sections:

"Back away from local interference for a while and put the entire responsibility where it belongs. Do not doubt the ability of any part of this country to govern itself. They all want proper living conditions and they will have them. Try it. You may be surprised."

A similar counsel comes from United States District Court Judge Samuel H. Sibley of Georgia:

"With great hesitation I suggest as a temporary experiment that in some communities all outside efforts at federal enforcement should cease for a while. The chances are that if things run wild for a while the community will wake up and begin the only effectual and permanent reform, to wit, that from within."

Make State Officials Obey Constitution

The most striking suggestion to cure the apathy of lax state enforcement officers comes from United States District Court Judge Louis FitzHenry, of Bloomington, Illinois.

He calls attention to the following paragraph in Article VI of the United States Constitution:

"These senators and representatives (of the United States) before mentioned **and the members of the several state legislatures, and all executive and judicial officers, both of the United States and the several states, shall be bound by oath or affirmation to support this Constitution."**

The 18th Amendment, he points out, is a part of the Constitution, just as much as the original Article VI. However, no act has ever been passed to enforce Article VI. Judge FitzHenry suggests:

"Procure the enactment by Congress of a simple statute making it a felony for any public officer to attempt to take office without taking the constitutional oath of office, or to take the oath of office with a mental reservation, agreement or purpose of evasion, or, having taken the oath of office in good faith, to afterwards

disregard it through misfeasance, malfeasance or confederation, with the corrupt purpose of nullifying any provision of the Constitution."

Better "Search and Seizure" Laws

An outstanding complaint in the following pages has to do with provisions of the Volstead Act which are alleged to be inadequate and ineffective regarding the procedure required in order to apprehend law violators. At the present time, a warrant for search of a speakeasy and seizure of its unlawful contents will be issued only upon material evidence which generally the federal official himself must secure as an under-cover man. There is some complaint against this method of the government securing evidence by itself violating the law. There are eighteen state laws which allow search warrants on affidavit of belief that the law is being violated without requiring affidavit of violation. There are fourteen states which allow private citizens to be authors of liquor search warrants.

However, the most serious of the Volstead Act's weaknesses in this respect appears to be its provision forbidding the issuance of a search warrant for a private dwelling, "unless it is being used for the unlawful sale of intoxicating liquors." As a result, particularly in cities, liquor is manufactured and stored in private dwellings and apartments. Judge L. H. Hampton, Assistant Chief Counsel of the prohibition unit, in Washington, says, "no similar protection to criminal activities within a dwelling exists in relation to any other federal offense."

Identifying Repeaters

One of the serious difficulties in dealing with professional bootleggers is the difficulty of properly identifying repeaters, so as to apply to them the heavy penalties which are intended by the law for "prior" offenders. W. L. Curtis, Assistant District Attorney of Dallas, Texas, says:

"When the bootlegger is convicted in one part of the country, he may, after serving his time, go to another part of the country, change his name and ply his vocation without being soon apprehended because of the inefficiency of keeping a check on him. And when

again convicted, his former record is unknown and he may receive a lighter punishment than he deserves."

James E. Davis, Chief of Police at Los Angeles, proposes a reorganization of the Prohibition Bureau, including a new Division of Identification. Its duties will be to maintain at national and state headquarters record offices where identifying data, including fingerprints, on all arrested persons will be received. Such records will be collected in local offices, copies being filed in both state and national headquarters. A proper system of exchange will be instituted between state bureaus of identification, the national bureau, federal and state prisons and local peace officers. Proper files of this kind would make it possible to have full information for prosecuting attorney and court as to all prior arrests.

Revise Volstead Act Penalties

If there is complaint with regard to inadequate provisions for catching prohibition criminals, there is still more complaint with regard to the operation and inadequacy of the present laws to punish them.

There are occasional suggestions that some official body work out a standard code of prohibition enforcement laws, to be substituted for the present legislation and adopted alike by the federal government and all states. Such uniformity would, however, require a leveling downwards in case of laws now effective in the more radical prohibition states. It is hardly to be expected that a federal law could be passed as stringent as, for example, the legislation in force in Kansas.

However, there is general agreement as to the need of a revision of the Volstead Act in the direction of stiffer and more certain penalties and changes that will enable officers more easily to apprehend lawbreakers. The prohibition law violator today has an advantage which is thus picturesquely described by Judge Ewing Cockrell, Missouri Circuit Judge, and President, United States Federation of Justice:

"The violator of the Amendment fights nineteen soldiers of the law. If he whips any one of these nineteen, he wins the whole battle. These nineteen are (1) police; (2) prosecutor; (3) trial judge; (4) authority

selecting the jury panel; (5 to 16) twelve jurors, anyone of whom may block a verdict; (17) Appellate Court; (18) jailer; (19) pardoning authority.

"Effective enforcement comes only from all these groups being effective."

Our legal machinery, its procedure and the penalties it pretends to enforce, are represented as antiquated and obsolete, unfit to cope with the highly organized forces of the criminal liquor rings. A number of officials call attention to the fact that some of the very severe and effective penalties against illicit liquor in the old revenue laws were repealed and replaced by the milder provisions of the Volstead Act, in the interest of assuring its passage by Congress. Some of these old revenue laws, however, are still on the statute books and are used in preference to the Volstead Act by prosecuting officers who want—and can secure from judges and juries—severer penalties against offenders. (See McDaniel's Comparison of Conditions in Arkansas and Louisiana, page 27).

Penalties For Bootleggers

The bulk of criticism with regard to inadequate penalties is directed against commercial violators of the prohibition law, though there is plenty of indignation against faithless public officials who escape punishment, and there is a fairly frequent recommendation that citizen violators be drawn into the picture by making the purchaser equally guilty with the seller.

Bootlegging is described as "the most profitable of all crimes," and the one easiest to get away with. How easy it is in a wet city is effectively illustrated by a table submitted in the plan of Judge L. H. Hampton, Assistant Chief Counsel of the prohibition unit, showing that in New York City 1.6 per cent of those convicted are imprisoned for an average of 43.3 days, while 98.4 per cent are merely fined, the average fine being $26.03.

The carefree life of the bootlegger is pictured by George W. Goodwin, Jr., Special Deputy Sheriff at Edenton, N. C., summing up the bootlegger's arrest and conviction as follows:

"1. Through an order of court, he has paid just

enough fine to amount to a small license fee.

"2. He has received an untold amount of free and first-class advertising.

"3. He goes back to his old haunts, except that he stops on his way at the best stores and buys a new bunch of supplies in order to fit out a bigger and better rig in order to take care of the increased demand for his wares resulting from his conviction."

There seems some shadow of reason in the statement that "if there were similar mild and uncertain punishment for murder, there would probably be plenty of it."

Most of the authors want each offense against the Volstead Act made a felony. There is frequent, though not general, demand for a high minimum sentence for first offenders, often including mandatory jail sentence as well as fine. There is substantial agreement upon mandatory jail sentences for second and subsequent offenders. Those who refrain from urging imprisonment for first offenders do it in apparent recognition of the established principle that undue severity of penalty, exceeding the bounds of public opinion, tends to defeat itself because it fails to secure conviction from juries.

Most of those who avoid the suggestion of minimum punishment for first offense, urge a higher maximum penalty, such as the provision in Congressman Gale H. Stalker's plan of "a fine not to exceed $10,000 or imprisonment not to exceed five years, or both." This leaves the judge free to regard the obvious differences in seriousness of first offenses, while he is authorized to strike a heavy blow at large-scale "first offenders." The present first offense penalty is a fine of not more than $1,000 and imprisonment not to exceed six months.

The proposed high maximum penalty makes all offenses felonies. It enables the summary deportation of alien offenders who, at the present time, if they have resided in this country five years, cannot be deported except for crimes involving "moral turpitude." A large per cent of the papers call for the deportation of alien offenders who, according to some estimates, constitute 90 per cent of the bootlegging fraternity.

Penalties against faithless public servants are widely

urged. Suggestions range all the way from removal from office to deprivation of citizenship for five years and long terms of imprisonment. The spectacle of judges with illicit liquor in their own cellars and on their own tables sentencing prisoners to jail for its possession is the subject of frequent condemnation in these pages. The known wetness of judge or prosecuting attorney is represented as being an element that influences juries for acquittal.

The Department of Justice is looked to as the proper agency for a clean-up of court officials, the Prohibition Bureau for a clean-up of enforcement officers. The suggestion is made that the President exact a promise of law observance and official zeal from all federal employees connected in whatever capacity with the prohibition enforcement. Governor Pinchot suggests that the President successively call together the heads of prohibition enforcement, administrators and prosecuting attorneys, give them a time limit within which to produce results, and let them go if the results are not forthcoming. He also wants the President to announce that he will offer no federal appointment to anyone who has not given his or her word to obey the Constitution of the United States, including the 18th Amendment, and all laws enacted to give it effect.

Penalties for Citizen Violators

With respect to the plain citizen violator, many want to make the purchaser equally guilty with the seller. Logically, there appears no escape from this measure, sooner or later. Its omission has been simply a matter of policy. It is obvious that there can be no sales if there are no purchasers. If it is a crime to sell it, it must be a crime to buy it. Consumers outnumber bootleggers 25 to 1.

At the present time the purchase of liquor is not illegal, though its possession is. Possession, however, can usually be established only after search of a dwelling, for which a warrant can be secured only upon evidence of sale. We have already had occasion to refer to other disadvantages to enforcement that flow from this extraordinary restriction of the right of search and seizure.

Loss of citizenship and loss of franchise are among the

penalties which some radicals recommend for citizen violators.

Bad Example of "Prominent Citizens"

The book is full of complaints with respect to the favoritism shown prominent violators in the course of law enforcement. Punishment is asked "for the rich and the white as well as the poor and the black." There is demand for action and publicity of action against "Mr. and Mrs. Prominent Citizen." It is claimed that "it is not the gutter-drunk money which builds up bootleggers." As Judge J. A. Buchanan of Astoria, Oregon, remarks: "Nothing serves to retard the enforcement of the law so much as the continual punishment of the humbler citizens, even 'common drunks,' while those in 'high places' escape." James E. Davis, Chief of Police, Los Angeles, says:

> "Persons prominent in our social life, and holding positions of leadership in our professional, business and industrial world seem to have no conception of the contagiously disastrous effect of their own support of an outlaw 'industry.' Their money gives it power, their known sympathy and patronage gives it prestige in places where it should be shown no quarter."

In this connection, the editor cannot refrain from recalling the words addressed to this class of prominent citizens by Secretary of the Navy Curtis D. Wilbur, addressing the Woman's National Convention for Law Enforcement in Washington five years ago:

> "Some men think the Volstead Act and the 18th Amendment a joke, but they are laughing at the Stars and Stripes. The man who steals, robs or murders, does not do as much to destroy government as the man who violates a law because he does not like it, or because he feels he can avoid its penalties. The first man is an adventurer and takes his chance against society and expects punishment if discovered. The latter is a sneak and a hypocrite who expects, if discovered, to avoid the penalties of the law by advancing his good character, reputation and his pure intentions, and who will claim that he loves the country he has so smilingly and hypocritically defied, if not betrayed. Can you blame a straightforward and downright thief for look-

ing down on the wealthy and powerful malefactor, who expects to escape all penalties by his reputation and wealth? One man is honestly dishonest, and the other expects to escape by corrupting the conscience of the people."

Pre-Volstead Cellars

Particular complaint is made as to the unfair discrimination brought about by perpetuation of the pre-Volstead cellars of rich people. There is probably little pre-Volstead liquor left, but this provision of the law enables wealthy citizens to keep their cellars continually stocked, as by the device of refilling pre-Volstead containers. Attention is called to the fact that, when slavery was abolished and narcotics outlawed, rich slave-owners and wealthy addicts were not authorized to procure supplies of slaves and narcotics for use after the law went into effect.

There seems no doubt that a popular measure would be for Congress to declare all remaining pre-Volstead liquor now possessed in the United States for the private use of owners, their families and guests, confiscated or forfeited from the date of the law. Legal considerations might require compensation for the dispossessed owners.

Penalties Against Premises

The liquor traffic can be struck at not only by penalties against individuals, but, very effectively, by penalties against property used for this purpose. This principle is at the basis of the Volstead Act's provision of injunction and abatement orders for nuisances. The philosophy of proceeding against property is clearly stated by A. P. Wilson, Prosecuting Attorney, Grays Harbor County, Washington, whose entire plan is concentrated on this subject:

"Up to this time the law has spent all its force prosecuting those who directly engage in the forbidden acts. However, the illicit traffic in liquor cannot exist without the use of tangible property, both real and personal. Back of this property is the property owner. We now suffer intoxicating liquor to come into existence and then try to suppress it. The more effective plan would be to so control property and the uses that may be made

of it that intoxicating liquor cannot be manufactured or dealt in, and there will then be no liquor to suppress."

A fundamental advantage of the injunction is that it is an equity action not requiring jury trial. Both property and person are enjoined, and violation of the injunction is contempt of court, likewise punishable without jury trial.

Several contributors allege inadequacy in the Volstead Act's injunction and abatement provisions. They urge that, as in some of the state acts, the federal law should make injunctions against premises perpetual, and should make injunctions against persons effective not only in the locality where issued, but all over the United States.

Wet Judges

Nothing will impress the reader more than the ominous frequency with which he meets complaints of indifference, laxity and actual opposition to the prohibition law on the part of judges and prosecuting officers sworn to uphold it, together with the rest of the Constitution and laws of the United States.

In discussing the proposals for elimination of wet influences in our courts, we can divide the subject into judges, prosecuting attorneys, jurors.

The complaints with respect to judges may be illustrated by the following quotations:

> "How hypocritical for a judge on the bench to sentence a particular bootlegger before him if he has a private stock at home purchased from a bootlegger or even if, by drinking with friends, he has encouraged such friends to patronize bootleggers. If a man does not have the integrity to observe the laws of his country, he should have the manhood to resign." (District Judge Louis Lightner, Columbus, Nebraska.)

> "Too many judges are not in sympathy with enforcement to be allowed their own discretion in fixing penalties. I have even heard judges in their charges to grand juries apologize for the prohibition law. I have known judges to render decisions directly contrary to decisions handed down by the Supreme Court. This should be prohibited and in doubtful cases the district attorney

should be compelled to appeal the case." (A. W. McDaniel, Prohibition Agent, Laurel, Miss.)

"In small communities, in particular, the jurors know full well the character and proclivities of the officials, from the judge down, and when called upon to declare a man guilty whom they know to be no more so, at least not morally, than the judge or the prosecuting officers, they naturally hesitate. To them the court procedure becomes a farce." (John Rustgard, Attorney General, Alaska.)

"A heavy handicap to prohibition enforcement is indifferent and antagonistic judges who give all the 'breaks' to the defendants, criticize the officers, and, after a conviction is secured, impose a ridiculously light sentence, which makes a travesty of justice." (R. Q. Merrick, Prohibition Administrator of Virginia, South Carolina and North Carolina.)

"We have the courts on one side making a jest of the law by trifling sentences and lax enforcement, and on the other side making a byword of the law by a frank disregard of all safeguards and guarantees of liberty and privacy in respect to persons charged with violation of this particular law." (Harold D. Shaft, Assistant Attorney General, Bismarck, North Dakota.)

The remedy proposed is that in appointing federal judges, the President should discover whether they believe in enforcing the entire Constitution or only a part of it. If there are judges violating the 18th Amendment and the Volstead Act in their personal lives, it is urged that a prompt example of them should be made. It is suggested that the Department of Justice can give the President the facts as to the leniency of certain federal judges in imposing the sentences required by law.

Crowded Federal Courts

Universal is the complaint that the federal courts handling prohibition cases are crowded to suffocation. When

the Volstead Act was passed, the apparent expectation was that state enforcement laws would supplement it and bring into operation the machinery of the state courts. Where this has occurred, as in certain midwest states, court conditions are reasonably satisfactory. But where, as in New York, no state enforcement act exists, the federal courts, already over-busy when prohibition came along, are burdened beyond endurance. In many sections of the country, the demand is for "intermediate" or "prohibition" courts, subordinate to the federal district courts, charged with trying first offenders and minor offenses. Some make the suggestion that United States Commissioners be empowered to try these cases. The situation is illustrated by the following quotations:

"The State of New York has four separate federal districts, to wit: western, northern, southern and eastern districts. Using the western district of New York as an example, we find that it has two federal judges. These two judges alone have the power to try and sentence for violation of the Volstead law in a territory containing about two million population, including a large number of counties. The judges are forced, therefore, to encourage pleas of guilty to the indictments found by federal grand juries. The practical result (which all federal judges, United States attorneys and other persons familiar with the situation know to be the fact) is that in order to make some progress with the criminal cases facing them, judges are absolutely forced to accept innumerable pleas with the tacit understanding that the fines will be nominal." (Guy W. Cheney, District Attorney, Steuben County, Corning, New York.)

"During the calendar year of 1924, I recall that we made 14,000 arrests for violation of the National Prohibition Act in New York City. Only a small percentage of these cases were ever disposed of in court, the rest dragged along and a great many were finally nolle prossed." (R. Q. Merrick, formerly prohibition administrator in New York City.)

"The federal courts are so disorganized by the number of prohibition cases and the difficulties of dealing with them, that it has become the custom in many federal courts, in order to expedite the handling of prohibition cases, to turn the days for pleading into 'bargain days' for those who will plead guilty." (Harold C. Keyes, formerly of the United States Secret Service.)

"After offenses against the prohibition laws were made a misdemeanor, our federal courts were reduced to nothing more than police courts, though often there is more dignity connected with and more respect for the police courts, especially so where the United States judges and district attorneys are not in sympathy with the law, and that is more often than the general public thinks to be the case. In the wettest spots, where offenders should be dealt with more severely, I have known federal judges to give what is known as 'bargain days'; then if the offender will enter a plea of guilty, a minimum penalty will be imposed and the greater part of that suspended." (A. W. McDaniel, Prohibition Agent, Laurel, Miss.)

Wet Prosecuting Attorneys

From all sections of the country come complaints against United States attorneys who are not in sympathy with the law. Samples follow:

"United States attorneys have been appointed who were not in sympathy with the law and the proper efforts for conviction were not made. Notorious offenders have been brought into court charged with the whole category of offenses and the United States attorney has accepted pleas of guilty on one of the minor counts (say 'possession') and nolle prossed the other counts, thus letting the defendants get off with small fines. Any plea of guilty is ordinarily accepted in order to clear the docket." (R. Q. Merrick, Prohibition Administrator, Virginia, South Carolina, North Carolina.)

"What would happen if the customs houses were

turned over to smugglers, and the enforcement of the law against larceny were entrusted to receivers of stolen goods? The question sounds absurd, but the administration at Washington has in the past so very generally selected the officers of the legal and judicial machinery from among those who have been and are patrons of bootleggers and as such accessories of the crime they are required to prosecute and punish. Some time ago I accepted an invitation of a prosecuting officer to visit him at his apartment in one of the larger cities of the country and found myself confronted with a buffet crowded to capacity with a battalion of bottles and glasses. There was no attempt to hide the fact that this officer himself was a patron of crime." (John Rustgard, Attorney-General, Alaska.)

A drastic remedy for these evils is suggested by ex-Governor Pinchot of Pennsylvania:

"Call together in the White House (with the Attorney-General and the Assistant Attorney-General in charge of enforcement both present) all United States district attorneys, point out in open meeting that some of them have been active in enforcement and some have not, give notice that all of them will be required within thirty days to give proof of activity and within three months to produce results, and make it clear that those who fail will be promptly removed. Direct the Attorney-General to report the facts at the end of thirty days, and thereafter every three months for further orders."

United States District Judge William B. Lymer, of Honolulu, makes a striking suggestion for keeping the prosecuting attorneys in order:

"The President should appoint, as additional assistants to the Attorney-General, twenty men who would, in fact, be the President's personal emissaries, to travel over the country, assisting United States attorneys in prosecuting breaches of the National Prohibition Act, paying especial attention to localities where enforcement is lax. They should be appointed with as scrupulous care as the prohibition administrators themselves.

They will within six months effect an absolute and striking change in public sentiment in increased respect for law and law enforcement."

Apparently there are many instances where the staff of assistant district attorneys is insufficient in number and experience, and underpaid. Supreme Court Justice Thomas H. Noonan of Buffalo says that "the United States district attorneys do not have the proper number of assistants to adequately enforce the law," and "the salary provided for these assistants is not such as to attract young men of the right calibre." United States District Judge William H. Sawtelle of Arizona says:

"It is impossible for the district attorney himself to prosecute all violations committed and triable within his district, and, of necessity he must rely upon his assistants, many of whom are young, inexperienced lawyers, who accept the office temporarily merely for the opportunities afforded them to acquire experience at the bar. With rare exception, they are wholly unprepared to cope with experienced lawyers representing the accused, and the result is what might be expected. These inexperienced, poorly paid young men are not capable of properly representing the government. They do not know when they have a strong case or how to present it at court."

Juries That Won't Convict

No link in the judicial chain is weaker than the jury, as testified in these pages. The situation may be illustrated by the following quotations:

"The fact that juries will not convict is another weakness of the Volstead Act. Any effort to deprive violators of the Act of their right to trial by jury and the judgment of their peers or to make anything less than unanimous decision necessary to convict, is a mistake, and does violence to fundamental constitutional and traditional rights of our citizens. The remedy for this weakness is to make it a matter of proper investigation and to see to it that no one is allowed to be upon the jury list who is not in sympathy with the Act, both

publicly and in his private life." (Arthur R. Ellison, District Attorney, Watkins Glen, New York.)

"The major weakness lies in the courts, both federal and local, in every case where a jury trial is demanded. The judges are not at fault generally, and this author is a local township judge. The same judges who now hear local cases can and will enforce the law with sufficient and just punishment when, and if, they can get convictions. The weakest link in the chain of enforcement is our boasted jury system.

"In this county, one of the largest in the second largest state in the Union, a jury conviction has not been obtained in a liquor case in the last two years, and in my own court a jury conviction of a liquor case has never been secured since the Amendment and its enabling Act went into effect." (William B. Smith, Township Judge, Kernville, California.)

Our jury system received severe condemnation at the hands of Chief Justice Taft, in an interview with Basil Manly, special correspondent of the New York *Evening World,* January 9, 1929:

"It is a disgrace to our country that so many criminals with large resources at their command have been able to avoid paying the penalty for their misdeeds. **At the basis of this situation lies our jury system, which must be improved if we are to secure effective justice.** We must find a means of securing intelligent and conscientious jurors, who will not be misled by ingenious attorneys nor swayed by maudlin appeals to sympathy."

A few contributors, like Mina C. Van Winkle, Director of the Woman's Bureau, Metropolitan Police, Washington, D. C., want the jury system abolished, or urge that it be modified to permit of decisions by a majority or two-thirds of the jury. More frequently, however, when the subject is discussed, it is to sound a warning against such proposals to modify this, called the most ancient and fundamental of our civil rights.

The ruling spirit of the contributors to this volume is

rather that a solution of the juror problem is bound up with the wider problem of citizen attitude towards the 18th Amendment and the laws enforcing it. It is admitted that we need more effective measures to apprehend wilful violators of the law, and more sure and stern penalties to punish them. The great task, however, seems to be to create a new spirit in the main body of our citizens, a majority of whom appear to wish the law well, but not well enough to be willing to make the sacrifice of complete obedience to it and a willing co-operation in its enforcement.

Educate the Public

In other words, the main burden of the story in the following pages is the need of education: education in good citizenship, law observance, the Constitution, the exact meaning of the 18th Amendment and the Volstead Act, the social and moral and hygienic and industrial advantages of prohibition; finally, education of the public as to the methods and results of enforcement. There are few plans lacking in this element. Twenty-five plans are, in the main, schemes of education, to be carried on by a great variety of societies and organizations and public bodies, old and new.

Typical viewpoints are expressed in the following quotations:

> "One school-teacher is of more value in enforcing the law than ten policemen. One schoolhouse is a better investment for the community at large than twenty jails." (Michael J. Murphy, Lawrence, Mass., for 53 years active in police work.)

> "These laws which seek to moderate drinking by cutting off the supply **depend practically for their success on moderating the demand.** This cannot be achieved everywhere and at once. Reason and conscience more than law must be its permanent basis." (U. S. District Judge Samuel H. Sibley, Georgia.)

There is a demand for extension of formal courses on alcoholism in the common schools and in colleges. The need of compulsory training in civics is stressed.

The suggestions for education are not limited to schools

and colleges. The process is to be carried to the entire body of citizens, by public bodies and private organizations, with detailed recommendations as to the use of the news press, advertising, radio, lectures, conferences.

Again and again the opinion is expressed that the American people are a reasonable people and that, if they are "shown," they will respond. A strong plea for government propaganda is made by John R. Keister, District Attorney of Greensburg, Pa. He says:

> "The nation might as well try to wage war with Japan, without using the navy, as oppose liquor forces without enlisting the support of federal-engineered propaganda to mold the opinion of the masses."

Fact-Finding Bodies

Both official government bodies and private organizations, old and new, are urged as the agency to collect the information on the facts of prohibition, thus to be promulgated. One of the plans for a citizen fact-finding organization is submitted by James W. Everington of Glendale, California, formerly Chief of Police, Los Angeles. Middle and upper class Americans, he says, are "joiners." He quotes Herbert Hoover as saying that he sees, in the ultimate, united efforts of our organized groups of society, working together to improve living conditions, the salvation of our form of government. Mr. Everington says:

> "Your first task in your program to make the 18th Amendment effective should be to establish a national civic research institute to help every city in the country do for itself what Cleveland has done for herself since she has substituted fact-finding for fault-finding as her method of solving civic problems.
>
> "Prohibit the endorsement of political candidates, projects and measures. Limit all political activities of this nature to fact-finding and to the dissemination of the facts found, without recommendations. Reform organizations which attempt to tell the people how to vote degenerate into 'jobs' for someone."

A similar plan for a governmental fact-finding organization is presented by Robert M. Davis, Editorial Council, McGraw-Hill Publishing Company, New York. He contends

that "the first step in the solution of a business problem is to establish a background—to ascertain the exact situation and to establish factors which will determine the assets and deficiencies of, as in this case, the product or proposition to be sold to the public (the 18th Amendment)." Therefore he urges the appointment of nine citizen committees, each of which shall study the facts of prohibition in its own field. The committees shall include executives, engineers, economists, legal minds, scientists, physicians, labor leaders, welfare workers, ministers, educators, sociologists and psychologists, bankers and general students of finance.

Both Davis and Everington assert the need of handling the problem of prohibition as if it were a problem in marketing, beginning with a complete analysis of the product (prohibition) and ending with organization of all the available means to get it into the minds of the public.

Irving Fisher and Associates, of New Haven and New York, have a detailed plan based upon their scientific study of the methods actually used by Herbert Hoover in getting results.

Private Organizations for Propaganda

Henry O. Evans, City Comptroller, Pittsburgh, urges "a national society or organization in support of the Amendment, the members to be enrolled from every element of our diversified population, without distinction as to race, color, religion or station in the community; and the platform or purpose of this organization should be broad enough to enlist the support of all who favor law observance for any and all reasons, whether moral, social, economic or governmental."

Elmer E. Thomas, Deputy Prohibition Administrator, Omaha, Nebraska, wants a national citizens' organization known as "The Constitutionals," the term of enlistment of its members four years, the unit of activity the county, the annual membership dues $1.00. The nucleus of the county organization is to be the original signers of a pledge recommended by Mr. Thomas.

Circuit Judge Ewing Cockrell of Missouri wants a private organization, to investigate, organize and propagandize. The chief objects of its endeavor would be to dis-

cover and make general the isolated successful methods of enforcing the law now in effect in different parts of the country. He says:

"We talk much about the failures of this law, but do little about its successes. Its successes exist and are easy to find. Let's find them and use them."

There is frequent reference to the alleged inactivity of the country's pre-prohibition educational temperance organizations, which, it is claimed, "lay down on their oars" after the passage of the Amendment, as if the work were done. The very general opinion is this expressed by Charles L. Cass, formerly in U. S. prohibition office, Los Angeles:

"Prohibition enforcement will become more effective if church societies, temperance organizations and women's clubs which for years waged aggressive warfare against the liquor traffic—a conflict finally resulting in the ratification of the 18th Amendment—realize that their task is not ended. The failure of the federal government to make a determined effort to enforce that legislation necessitates that they again re-form their ranks, this time not to secure the passage of laws, but secure their enforcement."

Presidential Responsibility

Who is to initiate, inspire and guide the reform of prohibition enforcement and prohibition observance? The single answer in these papers is that the responsibility is up to the President. Again and again the 1928 election is represented as a referendum on the wet-dry issue. Others who do not stress this point, enlarge upon the unique powers and responsibilities of the President. Dr. Ernest H. Cherrington, General Secretary of the World League Against Alcoholism, reminds us that the President is "the only federal enforcement official elected by the people, who is alone and specifically charged under the Constitution with the faithful execution of the laws, together with the preservation, protection and defense of the Constitution."

The strongest expression of this opinion is in the plan of ex-Governor Pinchot. He says:

"Because the problem of enforcing the 18th Amend-

ment is as wide as our system of government, the head of that system is the man to deal with it. The President of the United States can control all branches of law enforcement by the nation, and can effectively influence enforcement by all small political divisions, such as cities and states. No one else can.

"The President alone is strong enough to break the alliance between corrupt politics and the organized business of bootlegging.

"Only the President can awaken and lead a nation-wide insistence that the law shall actually be enforced.

"Law enforcement involves city, county, state and interstate, national and international questions. All of these matters can come together only in the President.

"The Constitution is under attack at the point of the 18th Amendment. The President has taken an oath to 'preserve, protect and defend' it. The laws are disregarded. It is his constitutional duty to 'take care that the laws be faithfully executed'."

Richard J. Hopkins, Associate Justice of the Supreme Court of Kansas, says:

"Ever since the ratification of the 18th Amendment, its enemies have persisted in a demand for a national referendum, maintaining that its passage and ratification were secured by a minority. The referendum has now been held. The nation in no uncertain terms has again taken its stand in favor of the Amendment. Having done so, has it the power and determination to make the Amendment fully effective, and if so, how?

"Primarily it is the duty of the Federal Government to assume the initiative in the enforcement of the Constitution and the laws made in support thereof."

Brantley W. Dobbins, District Attorney, Solano County, Fairfield, California, says:

"The dominant idea of my recommendations is to place the enforcement of the 18th Amendment directly at the door of the President of the United States. He can, if he desires, correct by removal, inefficient officials. In the appointment of Attorney-General and Prohibition Director, and his ultimate control over the

lower appointments, he can demand the enforcement that enforces.

"Further, while he cannot remove judges from the prohibition police courts, he has the appointive power, and can appoint only those of known sympathy with the 18th Amendment. When once the people of our country realize the President is throwing his weight and the influence of his great office behind the enforcement of the 18th Amendment, the one greatest single step will have been taken to bring about proper respect for the 18th Amendment and enforcement of the law."

Final Notes

With few exceptions, the authors of the following pages represent men who are, or have been, men connected with the enforcement of prohibition in executive, judicial or legislative capacity. In the ex-officials will in some cases be discovered a particular frankness of expression.

The non-official members of our group of authors were selected for particular reasons. The paper of Malcolm D. Almack, the Palo Alto High School junior, who won the $5,000 School Prize, is presented not only because he was a prize winner, but because his paper in itself shows a soundness of thought and a clarity of expression which give it a rank high in the list of all papers submitted in the contest.

I included the plans of Robert M. Davis, Editorial Council McGraw-Hill Publishing Company, and Irving Fisher and Associates, New Haven and New York, because those two papers contained specific and detailed proposals for an investigation into the facts of prohibition such as Mr. Hoover has announced he would cause to be made.

Finally, a group of plans was included from heads of private organizations whose business it is to watch the law enforcers and report on how they do their job. This group includes papers of Bishop James J. Cannon, Jr., Washington, D. C., Chairman, Board of Temperance and Social Service, Methodist Episcopal Church, South; Dr. Ernest H. Cherrington, General Secretary, World League Against Alcoholism, Washington, D. C.; Mrs. Henry W. Peabody, General Chairman, Women's National Committee for Law Enforcement, Beverly, Mass.; Clarence True Wilson, General

Secretary, Board of Temperance, Prohibition and Public Morals, Methodist Church; Dr. William Sheafe Chase, D. D., Superintendent, International Reform Federation, Washington, D. C.; Lofton S. Wesley, Executive Secretary, Inter-Collegiate Prohibition Association.

Another book of equal merit could be compiled from plans submitted by private citizens, shut out of this volume, which is confined to contributors who have to do with the law.

The quotations given in this introduction afford only a faint indication of the richness of the material in the pages to come. A special effort has been made to provide a complete topical index to faciltate a ready reference to what different authors said on each subject and what subjects were covered by each author. In the text authors are presented alphabetically.

The editor can take neither credit nor responsibility for the opinions expressed by his collaborators. In the foregoing pages it has been his business not to judge or approve their views, but to analyze and present them.

When the Committee of Award ceased its labors, it expressed its opinion, in words reproduced a few pages further on, that a great service would be rendered by compiling a mosaic of the plans presented in this contest. In a general way, I have here attempted to produce such a mosaic.

However, the specific task of making an effective and final "mosaic" belongs to legislators who enact laws and administrators who decree regulations and methods of procedure. My ambition is satisfied with here furnishing a valuable body of expert testimony from which such practical results can grow.

In closing, I want to repeat the final paragraph of my telegram of January 2, 1929, to Mr. Hearst, reprinted in full in the Appendix:

> "I am no fanatical dry. I am for law enforcement. If we can't enforce this law, I will be with you for its repeal. But first I want an honest effort to induce the decent people to observe it and force the criminal class to obey it."

New York, February, 1929.

THE DURANT PRIZE OFFER

August 27, 1928.

THE first duty of a good citizen is to obey the law. The highest law of the land is the Constitution. Part of the Constitution is the 18th Amendment. It was put into the Constitution by an overwhelming vote, passed by Congress and ratified by the legislatures of forty-six of the forty-eight states. Action contrary to the law is a crime and the offender is a criminal.

For the widespread disobedience to the liquor law as embodied in the Constitution, the business leaders of the country are very largely responsible. Had our business leaders frowned upon bootlegging instead of encouraging it, had they observed the law and encouraged its observance, had they raised their voices in protest of public and private violations, had they used their money and their influence to obtain a fair trial for one of the best measures ever adopted by this or any other country—in other words, if they had supported the Constitution of the United States—our public officials (including our judges), our children, our servants, our employees, and the thinking public generally would without question have caught the **spirit of law observance** —a very necessary requisite if we are to have a safe and permanent government.

Bootleg liquor has become the most widely advertised factor in the social life of men whose names are synonymous with success, wealth and power in their communities. The contagion of their lawlessness spreads through the entire population. This means impairment of the carefully-built safeguards of personal and property rights. Business leaders, who have the largest stake in law observance, set the example of law defiance.

It is my belief that the majority of our people do not want the 18th Amendment abandoned. It was made a part of the Constitution because there was need of it. People want it enforced and obeyed.

In order to give expression to the soundest thought in the country on the subject I offer a prize of $25,000 for the best and most practicable plan to make the 18th Amendment effective.

The prize will be awarded by a committee of prominent men and women now being selected.

Competitive offerings must be typewritten and not exceed two thousand words in length and must be submitted prior to December 1, 1928, to the Prize Committee on 18th Amendment, Room 2401, Fisk Building, New York City.

Prize will be awarded and paid December 25, 1928.

W. C. DURANT.

THE SCHOOL PRIZE OFFER

August 27, 1928.

To the School Principal:

The major issue in our country today is the problem of law enforcement and obedience to law. To paraphrase the words of Lincoln, it is a question of whether our institutions can endure with a citizenship half lawless and half law-abiding.

It is my belief that the majority of our people do not want the 18th Amendment abandoned. The legislatures of forty-six of the forty-eight states voted the 18th Amendment into the federal Constitution because there was need of it. Naturally, the people want it enforced and obeyed.

In order to give expression to the soundest thought of the country upon this subject, I have offered a prize of $25,000 for the best plan to make the 18th Amendment effective. Herewith a copy of the $25,000 Prize Announcement.

I have now decided to offer a further prize of $5,000 for the best and most practicable plan submitted by a student of a high school or preparatory school. Of this sum, $1,000 will be awarded to the student submitting the prize winning plan and $4,000 to the student's school.

Your institution is invited to submit a plan selected from among those prepared by your students, the successful contestant in your school to be chosen by an elimination contest conducted under your direction. Each school is entitled to present only one plan.

The prize award will be made by a committee of prominent men and women now being selected.

Competitive offerings must not exceed two thousand words in length and must be submitted prior to December 1, 1928. Prizes will be awarded and paid December 25, 1928.

Plans received in the High School-Preparatory School Competition, if of sufficient merit, are likewise eligible to compete for the Grand Prize of $25,000.

Possibly some of your students may be interested. The work of preparation would be an education in the complexities of our greatest national problem which, after all, must be solved by the younger generation.

Plans must be typewritten and forwarded to Prize Committee on 18th Amendment, Room 2401, Fisk Building, New York City.

Very truly yours,

W. C. DURANT.

PRIZE AWARD COMMITTEE ASKS FOR MOSAIC OF PLANS

Committee Room, Plaza Hotel.

December 20th, 1928.

Dear Mr. Durant:

Before adjourning tonight your Committee of Award begs to supplement its formal report of the two awards by expressing its conviction that you and the contributors to your contest have laid the basis for a most notable public service at a critical point in the nation's thinking about the 18th Amendment and law enforcement.

We are impressed with the evidence that other than prize winning plans contain extremely helpful data and that many writers have public connections which give them a representative character. For example: there are judges, editors, heads of civic agencies, police chiefs, United States district attorneys and other holders of distinguished public office.

The general soundness, compactness, readability and social-mindedness of the three high school plans dramatically prove that "it pays to educate" and to begin educating early with respect to social responsibilities and law enforcement.

The fact that proposed steps from each state have been separately tallied and filed suggests the possibility of interesting and educative summaries for use by the local press in different states. Again if you wish, the Committee authorizes the use of its name in summarizing plans by states.

As the reading of plans proceeded and as members discussed the expression of Mr. Roberts: "What a mosaic these plans would make if the salient and complementary points of all were put together!" it was decided to express to you the Committee's unanimous conviction that such a mosaic would prove invaluable to law enforcers, legislators and influential citizens wishing constructive results from your contest.

By Order of the Committee

(Wm. H. ALLEN), Secretary,

Mr. Wm. C. Durant,
250 W. 57th St.,
New York City, N. Y.

THE COMMITTEE APPOINTED TO · REVIEW · THE · PLANS SUBMITTED · FOR · THE ENFORCEMENT · OF · THE EIGHTEENTH AMENDMENT IN COMPETITION FOR THE

DURANT

PRIZE

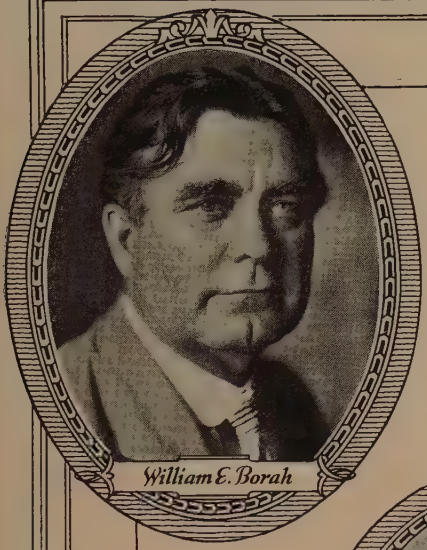
G. P. Whaley

George Gordon Battle

Jane Addams

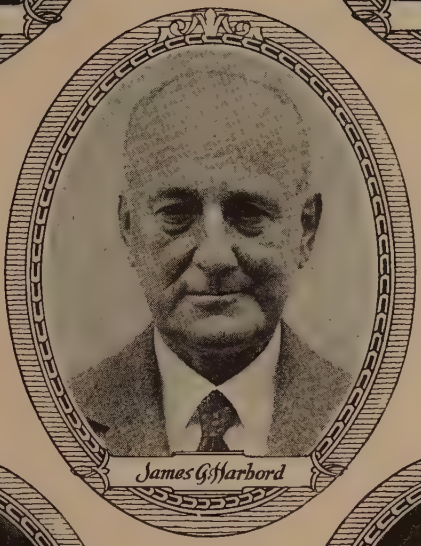
William G. McAdoo

Elmer Schlesinger



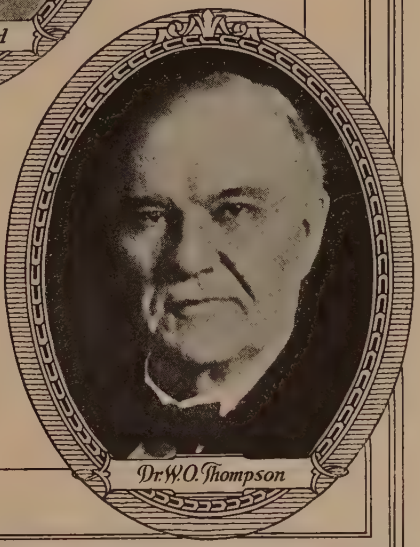
William E. Borah

Bruce Barton



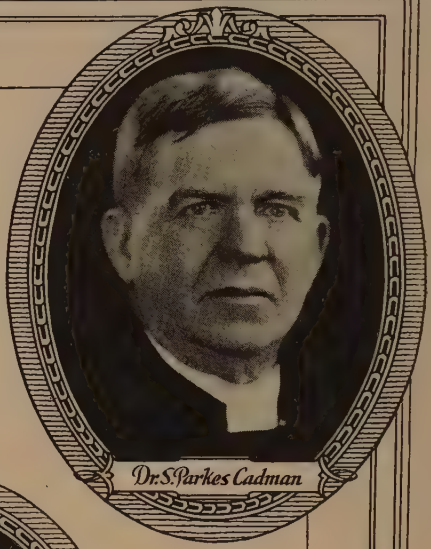
James G. Harbord

Dr. Stephen S. Wise



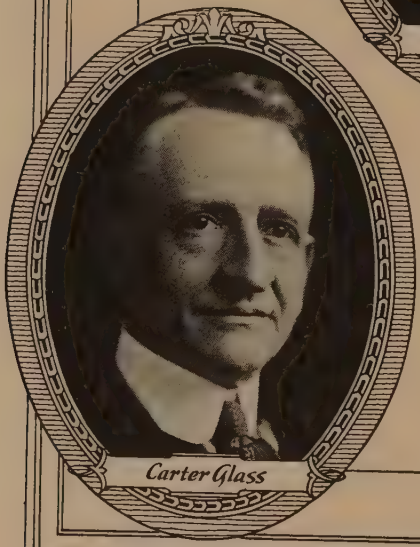
Dr. W. O. Thompson

Owen Roberts

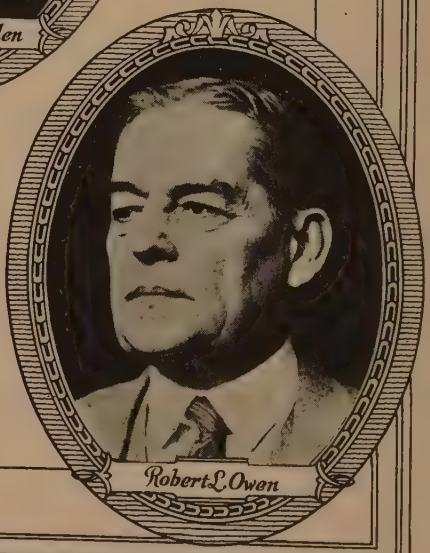


Dr. S. Parkes Cadman

Dr. William H. Allen



Carter Glass



Robert L. Owen

WHAT'S THE MATTER WITH PROHIBITION?

By 100

LAW ENFORCERS

LAWS MEN BREAK AND WHY

Edwin M. Abbott

Former Special Counsel to Philadelphia Directors of Public Safety, General Smedley D. Butler and George W. Elliott

SINCE the dawn of creation man has fought against inhibitions of his freedom of thought and action. The association of people into communities brought with it the necessity of legal restrictions, but to certain individuals those restrictions have always been obnoxious and repugnant.

The tendency of modern legislation has been more and more to curb the natural predilections of man and has resulted in general confusion when authority has attempted to enforce such laws.

The general antipathy to law enforcement is not confined to the present. It is only more general and more demonstrative now.

While the world is more charitable toward the needy and suffering, it has become obsessed with the demand for so-called "personal liberty," and as the wealth of this nation has been growing at tremendous leaps and bounds, with this accumulation has grown a disregard for law and the traditions upon which this nation was founded.

In ancient days when might was right, we had classes of all kinds. In modern times wealth and political influence run riot through the land and we have again been segregated into classes. "Liberty" has been interpreted to mean "license" and "the land of the free" defined to mean "do as you please with regard to others." The Golden Rule is gradually becoming emaciated.

Therefore, men have determined that the laws of to-day which are obnoxious shall be disregarded and that most laws are made for the other fellow, anyway.

Circumstances that control us under ordinary conditions

are often forgotten and submerged in the desire for liberty, and so we face a general disregard of law participated in by individuals, collective groups and in many instances by states or communities.

Laws We Disobey Every Day

Let us therefore consider certain laws which men will not respect and obey.

The automobile laws restrict speeding, parking, lighting and rules of the road. Pennsylvania has a maximum speed of 30 miles per hour, yet automobiles are advertised to do 50, 75 or even 100 miles per hour and the owner endeavors to demonstrate that his car can attain such speed. He wants to **go as fast as he pleases, drive wherever he pleases, park where he pleases and use such lights as he pleases,** but the other fellow should respect the law in all particulars.

Gambling is another subject which touches the personal liberty of our citizens. In Pennsylvania gambling is not a crime. But certain **kinds** of gambling are. **It is a crime to bet on an election,** and while the penalty is not serious, **everybody disregards this law and we never hear of prosecutions.**

The maintaining of gambling establishments, betting on horse races, being a common gambler and setting up lotteries or gambling devices are all contrary to law, but **in the sweet name of charity some churches often recognize the innocent lottery** and forget that every sale of a paddle or a chance on the sewing machine or cake is contrary to the law of the commonwealth.

And that brings us to **the crime of smuggling.** It sounds like a harsh word, and we think of the pirates of old when we contemplate such a crime. But **today it is a social event.** Returning from a trip abroad with jewelry, fine linen and other purchases, **the erstwhile "good citizen" contrives to get his booty home without paying the duty,** and later, **in the social circle he boasts how it came through by his political influence, or by a tip to the customs official.**

And this opens up the subject of **bribery,** which is such **an extensive one** that it reaches into many branches of

trade and into every avenue of activity. Public officials seem to be the targets for bribery, and we should be thankful that most of our public servants do not succumb to the temptation. But **citizens who want some favor or special privilege will not hesitate to go into our legislative halls, official offices or out into the highway** and attempt by the use of money to secure what they desire.

Have we carefully considered **how the modern lobbyist secures special legislation?** Does he always obtain votes by moral suasion—or argument?

Anti-Prohibition Crimes

The enforcement of the Volstead Act has opened many channels for the illegal use of money.

Disregard of the 18th Amendment, which is a part of our Constitution, and as much a part of the Constitution as the Bill of Rights, has led to the commission of many other crimes besides that of bribery.

A most amazing condition has resulted to the body politic through the honest attempt in this city to enforce the prohibition laws.

Perjury struts naked through our halls of justice, and disregard for the sanctity of the oath prevails in most of these cases.

Public officials, police officials, magistrates, grand jurors, petit jurors and even some judges upon the bench **forget that they are all sworn to uphold the Constitution and laws,** both of the nation and the commonwealth, before they enter upon the activities of their office.

Witnesses in court no longer regard the oath as binding them to tell the truth, but use their testimony to their own advantage, irrespective of its truth or falsity.

If jurors do not like a law they acquit defendants who are charged with transgressing it.

If jurists find the law obnoxious to them they discharge malefactors convicted of breaking it.

If police officials have been tainted with avarice and have fallen for a price, then memory becomes hazy and faulty, and so we have farce after farce enacted in what should be

courts of justice. There are many other crimes committeed in the general disregard of law.

Signs of the Crime Wave

The family physician, pressed to the limit by the exigencies of necessity, commits abortion to save the reputation of the daughter of a family which he has attended for many years.

The election official, ambitious to ascend the political ladder, takes a chance in disregarding election-law restrictions.

The so-called "good citizen" salves his conscience with exorbitant rentals of his real estate and does not consider the moral character of his tenant or the illegal purpose for which it is used.

The protection of health, sanitation, child-labor and factory laws, to the minds of many are impediments, and if one can forget them and evade them, well and good.

The pure food restrictions regarding adulteration or misbranding are evaded in many instances, and detection too often is punished with the imposition of a small fine. Seldom does any one receive a term in prison for his offense.

The anti-trust laws are dying of dry rot, and usury prevails in many garbs. The bonus is the most popular way of circumventing the six per cent interest limitation.

For every policeman who accepts a bribe there must be some one who gives it.

For every bootlegger who dispenses illegal beverages there must be citizens who purchase them.

The so-called crime wave is running rampant throughout the land. The populace is in hysteria in many sections. Murder, robbery, burglary, arson, rape, blackmail, kidnapping, larceny and kindred crimes are reported from every corner of this great nation.

What Can Be Done

The first place to begin is in the home. Parents must set the proper example before their children. By precept and

practice the youth of the land must be trained to walk in the paths of law-observance.

The foreigners within our bounds must be impressed with the fact that if they wish to enjoy the benefits of this great nation they must respect its laws, customs and traditions. **If they refuse to do so, they should be transported back to the land** whence they came. Congress should **broaden the laws, allowing us to deport all foreigners who become criminals before they have become naturalized citizens.**

Drastic laws forbidding the indiscriminate sale of firearms and deadly weapons should be enacted and enforced. This is the most vital need of the present day.

When crimes are committed there should be **prompt arrests, speedy trials and adequate punishments.** Delays and red tape should be eliminated. Mercy should always temper justice but should not be abused. First offenders should be handled in such a way as to give them a chance for rehabilitation, but **the recidivist, the confirmed criminal, should be segregated entirely from his fellows.** He is a menace and should be safely interned.

The subject of adequate penalties is a most important one. The difference in Pennsylvania between misdemeanors and felonies is incongruous and means nothing, due to the present condition of our statute laws. These differences should be abolished and **all offenses should be enumerated as crimes.** The more serious offenses should have more drastic punishments. Maximum penalties prescribed for many crimes should be increased.

Leniency Fosters Crime

The extension of parole to first offenders at the expiration of their minimum sentence should be under strict conditions, but no others should be discharged from a penal institution until they have clearly demonstrated their repentance and ability to return to society.

The **system of probation and suspended sentence** should only be exercised on behalf of first offenders, and **those who continually break the law, especially in disregard of the**

liquor, food and other laws touching our social fabric, should not be allowed to escape with a fine or costs.

A mandatory jail sentence should be written into the law for those who refuse time and again to obey it.

We should remember that a sentence is not only a punishment for the offender, but **should act as a deterrent to others.** It should serve as a reminder to all offenders to reform or take the consequences.

There should be a **revival of the double penalties for second and third offenses.** This system is practically obsolete, although still a part of our statute law.

And the **pardoning power should only be exercised where extreme emergencies require it.**

Could we awaken our people to the truth and make them realize that **the future of America depends upon the sanity of the present** we should still be in time to arrest this criminal outbreak and preserve for our children the grand heritage given us by our fathers.

WINNING HIGH SCHOOL PLAN

Malcolm D. Almack
Junior Class, Palo Alto Union High School
Palo Alto, California

THREE essentials are necessary to improve the effectiveness of the Prohibition Act. They are (1) **better knowledge of the law,** (2) **greater respect for the law,** and (3) **better administration of the law.**

People must know what a law requires before they can obey it. Every day some well meaning person is taken into court charged with breaking the traffic law. His excuse often is, "I didn't know I was violating the law. I don't want to do it. Why doesn't someone tell me what the law is?"

Many people do not know the exact provisions of the prohibition law. This statement can be tested by asking your neighbor a few simple questions such as:

> Does a citizen have the right under the law to make small quantities of liquor at home for his own use?
>
> Does he have the right to offer such liquor to his friends in his own home?
>
> How much alcohol must be present in drink to make it prohibitive?
>
> What is the penalty for violating the state law? The national law?

Citizens need to know the law to know their own duty in its enforcement. You see someone serving wine. Is he violating the law? Should you report him? How can you tell what your duty is if you do not know the law?

Knowledge of the law keeps many people from violating it. As long as they are ignorant of the law, they keep their consciences quiet by saying, "I don't know whether this is

wrong or not." As soon as they know positively that what they are doing is wrong, they usually quit, because they cannot bear the idea of knowingly being criminals.

Make the Law Understood

The remedy for ignorance is education. The first step in this plan is to have the text of the law published in the newspapers, to have it explained over the radio and to publish a little bulletin which would go to every citizen, telling what the law is. These bulletins should be published by the government, and distributed through churches, schools, service clubs, newspapers, and the patriotic and fraternal societies.

The law should also be taught in the schools. This can be done in classes in history and civics. The topic could be reported on in civic leagues, class meetings, and assemblies.

A year's campaign would make everyone acquainted with the law. This might be a **part of a larger campaign to teach people the new laws which affect their welfare closely.**

Knowledge of the law is not enough to insure its obedience. Therefore, the plan includes a method of **creating respect for the prohibition measure and for laws in general.**

People who do not obey laws, seldom think how serious for themselves and for others their attitude is. If everyone took the notion that he would obey a law or not just as he pleased, this country would soon be destroyed, and there would be no freedom or security for anyone. No man's life or property would be safe, and civilization would perish.

Reasons for Prohibition

To build up respect for law requires (1) an understanding of the reasons for the law, (2) a spirit of loyalty and good sportsmanship, and (3) strict enforcement.

The second step in the plan is to **teach the reasons back of the Prohibition Act.** From history, citizens can be led to see that **liquor has always been a bad thing.** It has been mixed up with the slave trade, with crime, poverty, disease, and everything that is injurious to men, women and chil-

dren. They can see that **the liquor business has always defied regulation,** and that the best thing is to put an end to it altogether.

People should be taught under this plan that **prohibition is sound economic policy,** because it **prevents waste, makes labor more efficient, releases capital for productive enterprise, reduces the cost of government** and **adds to savings.** Money spent for liquor cannot be spent for the necessities of life.

This plan includes teaching that **prohibition is good for the health.** It makes for **longer life, prevents sickness** and insures better nourished and healthier children.

Prohibition is good socially. **It reduces the worst kind of crime, decreases poverty, prevents accidents and improves character.**

New Facts by Research

In order to have facts to teach people, the third step in this plan is to **provide a research department as a part of the enforcement bureau.**

The means of teaching the facts are the same as are to be used in teaching the law: publications, radio, school instruction and speeches.

Every state in the union has a law requiring that the harmful effects of alcohol be taught in the schools. To carry out the spirit of these laws it is necessary to **teach the beneficial effects of prohibition.**

The **economic values in prohibition** should be taught in courses in history, civics, economics, and social problems.

The **health benefits** should be taught in courses in physiology, physical education, biology, chemistry, home economics, business and general science.

The **history of the movement** should be taught as a part of regular American history.

Build Up Morale

The fourth step in the plan is to **build up such a spirit among the people as will lead them to obey and support the law.** This is like good sportsmanship and the spirit of fair

play. In our school, we have no long list of rules, no jail, no fines, and no punishment, because they are unnecessary. The spirit is to do right, stand by the principal and the teachers and protect the good name of the school. **People will respond to an appeal to loyalty and to the honor of their country.**

The method is the same as is used by an employer, an army officer or a school principal in building up what is called morale.

Particularly should leaders be enlisted. The young men and women in the colleges, normal schools, high schools and commercial schools favor better conditions. **The enforcement of prohibition will further advance America as an example to other nations.**

Intelligent men and women will join in a great movement for obedience to the laws of the land.

They can be appealed to through schools, newspapers and magazines, radio, sermons, lectures, moving pictures, and by all means that reach the feelings and awaken the spirit of idealism.

Nothing is better than example in building morale. **If the best class of people would band together and agree to observe the law,** if they would insist upon others observing the law, their example would bring others into line. **People who have self-respect would then refuse to patronize the bootlegger or have anything to do with those who did patronize him.**

Real law is the sentiment and justice of the people in action. Their awakening is a part of the program.

Trained Enforcers

The fifth step is to **be sure the enforcing officers are well organized and capable.** The director should be a real leader and a **friend of prohibition.** The rank and file of the officers should be **recruited largely from among young people.**

Unless unavoidable, **no one should be accepted who has ever been connected with the liquor business.**

The officers should obtain their appointments through

the director and **not through congressmen.** They should pass a civil service examination **sufficiently strict** to guarantee good health, at least average intelligence and sound character.

Before entering upon their duties, they should **take a special training course.** This may be for only a month or two, somewhat like the summer camps of the national guard. At these camps, they would be taught the law, **how to gather evidence, how to present evidence, and, in general, how to enforce the law.**

Another purpose served by this training school would be to **build up morale.** The best recruits could be selected and given further training for promotion. The supervisors should also watch over the welfare of the men, and **the honor of the force should be developed as it has been among the Canadian mounted police and various state troops.**

More Courts

The sixth step in this plan is to **improve the courts.** While little can be done to change the system, an attempt can be made to **specialize the duties and increase the number of judges,** as was recently done under an amendment to the Constitution of California. **The people can be urged to cast their votes for judges who will punish violators of the law.**

State Enforcement Acts

The seventh step in the plan is to **try to induce all states to supplement the federal prohibition act by state enforcement acts.** The State Bar Association, the American Legion, and all patriotic societies should be requested to lead in this movement.

7 Practicable Steps

This program for the improvement of the enforcement of the National Prohibition Act can be summarized under seven points as follows:

1. **Teach what the law is.**
2. **Convince people that it is a good thing and persuade them to support it.**

3. Provide a research division to study the effect and administration of the law.
4. Lead people to co-operate in the enforcement of the law.
5. Provide an efficient and well organized body of enforcement officers.
6. Improve the courts through specializing duties, adding to the number of judges and electing capable and honest persons.
7. Adopt supplementary enforcing legislation in all the states.

The result will be not only better enforcement of prohibition, but greater respect for and obedience to all laws.

LESS LOCAL POLITICAL INFLUENCE

Edward Barnes
Formerly Assistant Solicitor to the Collector of Customs at the Port of New York

PROHIBITION even now, as Mr. Edison states, is 70% enforced. The corner saloons have almost been eliminated; the hotel bars where many thousands of gallons of liquor were drunk daily have been closed. The manufacture of liquor, ale and beer has practically ceased. The supply now available for the 30% of our people who are drinking comes from the stills, the diversion of industrial alcohol and smuggling from foreign countries.

In the states where there are large cities, non-observance is widespread. Speakeasies abound owing to the inadequate force of federal agents and in some instances to the faithlessness of some of such agents, also the lack of vigilance, the indifference or the connivance on the part of the police or other local officers.

With the enormous profits derived from the illicit manufacture and sale of liquor, it is not surprising that bribery of the enforcement officials is ofttimes accomplished.

Other causes for lack of observance and enforcement are:

1. **The local judiciary** in most large cities in states where there are state enforcement acts are **men who have been appointed or elected judges through the influence of political bosses, many or nearly all of whom have been reared under or subject to saloon influence.** The same applies to the prosecuting officials and accordingly, when violators are brought to trial, leniency is exercised or else there is a gross miscarriage of justice.

2. **Executive and administrative federal officers perhaps are largely influenced by the fear that too rigid enforcement might result in demotion or removal** and that the political fortunes of the party in power may be jeopardized—par-

ticularly when the President is regarded as a candidate for re-election.

3. **The court calendars are much congested** owing to the vast number of violations reported under the National Prohibition Act. Thousands of flagrant cases go unpunished because trials cannot be had with expedition and, **by reason of such delay, witnesses disappear or are "bought off" by the defense.** Also United States attorneys upon whom reliance must be placed are, for the most part, appointed upon the recommendation of United States senators or congressmen. Accordingly, **the zeal of the prosecution is apparently influenced by the attitude of such senators or congressmen,** many of whom are notoriously "wet."

"Political" Judges

Moreover, the assistants of the United States attorneys are said to be named at the dictation of the leaders of the local organization in power. In many cases, particularly those of importance, the defense is represented by lawyers identified with, and in many instances **closely** identified politically or otherwise, with the leaders referred to. This applies also to the federal judges, some of whom, it is said, are selected by the executive heads or leaders, who submit the names to the Attorney-General, who, in turn, submits them to the President. Some of these judges, after their elevation to the bench for life, are fearless and do not hesitate to mete out justice as contemplated by their oath of office. Others, however, born and bred in the school of politics, and ambitious for promotion to higher office, apparently show a bias or partiality in rendering decisions in prohibition cases without regard to the law or evidence.

To ameliorate present conditions, I recommend:

1. **Elect a President pledged to enforcement, whose record and affiliations correspond with his promises.** [*This plan was written before Nov. 6, 1928. Editor.*]

2. **Enact a law creating inferior courts to try or dispose** of minor violations of the Prohibition Act which now must be disposed of by indictment and libel proceedings.

3. **Create a tribunal to be known as the United States Court of Prohibition,** similar in its functions to the United States Customs Court, by which court felonies as well as forfeiture cases of major importance may be tried and disposed of as they are now by the United States District Court.

4. **Create a tribunal to be known as the United States Prohibition Court of Appeals,** to which appeal may be had from the court below, and from whose decision application may be had by a petition for a writ of certiorari for review by the Supreme Court of the United States.

5. **Assistant United States attorneys should be appointed, if not by competitive, by some other examination under rules of the Civil Service Commission, and be removed only for cause;** also **their salaries should be made so attractive** that the better element of young men may be attracted to such a career.

6. **Section 3 of the National Prohibition Act should be drastically amended so penalties will be heavier** and so that the bonding privilege as applied to offending vessels and vehicles be exercised in the court's discretion instead of being a matter of right as the law now stands.

7. **The internal revenue and customs laws should be made applicable as far as practicable** to the end that real and personal property may be forfeited along with offending liquor or contraband, and also that the owner or possessor of illicit liquor be subject to the internal revenue tax and customs duties due upon liquor forfeited to the United States. (The Supreme Court has repeatedly held that smuggled liquor is dutiable the same as if legally imported.)

Rich Offenders in Prison

8. **Prosecuting officers should demand prison sentences upon convicted wealthy offenders and the widest publicity should be given such cases.**

9. **The trials of cases of importance should be safeguarded** by the presence of federal agents so as to prevent jury tampering.

10. **The supply of medicinal liquor should be reduced to**

possession by the federal government and distribution taken away from druggists and vested in a federal bureau under rigid safeguards.

11. The probation or parole laws should be amended so that the wealthy class may not defeat the ends of justice by getting undeserved pardons or premature releases on parole.

12. The appointment of all enforcement officials, as far as practicable, should be under civil service rules and regulations.

13. An amendment should be made to the Federal Prohibition Act and the customs laws, so as to compensate informers who give the original information leading up to convictions or forfeitures as applied to intoxicating liquor. In the absence of recovery of proceeds, compensation should be made arbitrarily from the Treasury in the discretion of the judges of the United States Court of Prohibition.

14. The customs revenue laws should be amended so that vessels found with contraband liquor on board, or illegally landed, should be held for such penalties as may be prescribed for the masters' omission, and the power of remission or mitigation of such penalties should be vested in the judges of the United States Court of Prohibition in cases which are litigated, and in other cases in the Secretary of the Treasury. Heavy penalties attach under existing law but substantial amounts are rarely collected because the law provides that the offending vessel can only be held to secure the master's penalty when he is privy to the violation complained of. If not privy, the master is only civilly liable and (particularly in case of masters of foreign vessels) he is rarely responsible if legal action is taken and a judgment recovered.

15. In customs cases the bonding privilege when vessels or vehicles are seized should be accorded in the court's discretion rather than as a matter of right.

16. The co-operation of all religious, charitable and civic organizations should be earnestly sought to the end that public opinion may be constantly in touch with the government's activities.

PRESIDENTIAL LEADERSHIP IN ENFORCING AND EDUCATING

William M. Bennett
Former State Senator, New York

The 18th Amendment

1. The manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all the territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.
2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

The Problem

The best and most practicable plan to make the 18th Amendment effective.

Proposed Plan

This plan consists of two parts:

1. Legislation, enforcement, changes in administration.
2. Educational program to put public opinion back of the Amendment.

A constitution is not self-enforcing. It contains no penalties for its violation. It must therefore be followed by legislation to become effective.

Part I—Legislation, Enforcement, Changes in Administration

A. Legislation

1. Federal: Federal legislation (a) defines "intoxicating"; (b) declares the crime for violation of the Amendment; (c) creates officers to administer the law. Under it there is now partial enforcement, but the Amendment is not completely effective.

2. State legislation: The Amendment contemplates aid by the states by making jurisdiction of the Congress and the states "concurrent."

The 35 states which were dry before this Amendment should not repeal their then existing prohibition laws nor relax their efforts to enforce them. If not already done, the laws in these states should be enlarged so as to include the enforcement also of this 18th Amendment.

Other states should pass enforcement legislation to make the 18th Amendment effective within their borders. These laws should be uniform.

B. Enforcement of the Legislation

1. Federal enforcement: There are about 2,000 federal enforcement officers trying to cover 3,000,000 square miles of territory, about 27,000 miles of coast line, and 4,000 miles of land boundary.

Their number should be increased, their pay increased. They should be men of established character, who believe in the Amendment and who personally observe the law.

2. State enforcement: In the states dry prior to 1920, public opinion and state tradition would require that they keep up their police forces to enforce both their own prohibition laws and make the 18th Amendment effective.

In other states and cities, as, for example, New York with its 12,000,000 and New York City with its 6,000,000 inhabitants, state legislation should place upon the local police forces the enforcement of such laws.

In New York there are 300 federal prohibition agents. New York City has 17,000 policemen. Such a force can make the 18th Amendment effective in New York City. Other cities can do the same.

Every policeman knows what is going on in every building on his beat, whether it houses a still, a bootlegger, or a speakeasy.

Every police department should have some official, a deputy commissioner, charged with the duty of keeping a real estate map showing the location of every such place, a

file showing the record of such places and history of the persons running them. Each patrolman should be required to submit to such official a periodical report as to the condition of his beat. Such deputy police commissioner should have the power to examine patrolmen as to the condition of their beats, and also to investigate the complaints of private citizens, have the power to subpoena witnesses in connection with such investigations, and jurisdiction to try patrolmen for neglect of duty.

C. Convictions

Crime must be punished, else the law is not salutary. Local police officers can arrest for violations of the Volstead Act, but **state courts can not try the offender for violation of federal statutes. Hence the crowded condition of our federal courts.**

State legislation will open state and local courts to try offenders against prohibition. Thus speedier trials will result.

D. Judiciary

Courts should uphold the enforcement officers. Judges should not be too technical about the evidence. They should impose severer sentences. Failure to do so discourages the officers and prohibition agents.

E. What Is Accomplished and What Still To Be Done

1. The saloon: The 18th Amendment has abolished the open saloon. To that very desirable extent the Amendment is effective.

2. Moonshiners, rum-runners, bootleggers, speakeasies: The federal government is dealing with all of these fairly effectively.

State legislation and local enforcement should aid.

The patrolman knows every building. Vast majority of houses require no watching. The comparatively few that require watching can easily be covered, once state and local aid is obtained.

F. Violation of the 18th Amendment Is a Business

No one will manufacture, sell, or transport liquors unless it is profitable. It is a business with tremendous investment. **Make the business unprofitable and those engaged in it will quit.**

Dry up the sources: Seek out and destroy the stills. Concentrate on seizures and destruction of cargoes, whether carried on the sea in ships, on land by auto, or on the sidewalk by hand.

Destruction of stills, prevention of delivery, and stopping the trade of the speakeasy is simple when the hundreds of thousands of already existing state and local peace officers co-operate.

Landlords know their tenants. Make them get rid of any criminal tenants.

Conviction for crime helps, but make business unprofitable and it will cease.

It takes two people to make a bootlegger—the seller and the buyer. Education to total abstinence will make the business unprofitable by decreasing the number of customers. The former educational program in schools, schoolbooks, churches, Sunday schools, lecture halls, and homes **should not be dropped for a mere law observance plan.**

Some Changes in the Federal Administrative Scheme

1. Administration of this law should be made a separate department of the government directly responsible to the President. Making the Amendment effective is so important that it was made one of the main issues in the recent presidential campaign. Economic saving effected by prohibition runs into several billions of dollars. It is a nation-wide problem. **President-elect Hoover has pledged himself to a special effort to enforce it.**

The administration of this law should be placed in a separate department of government, namely, **a commission of outstanding men appointed directly by the President.**

Thus the subject will be dignified, have its proper importance, and outstanding men of ability will consider it

an honor to be appointed one of the commissioners. We have ample warrant for this in the Interstate Commerce Commission and in the Federal Trade Commission.

To this commission should be transferred from the Treasury Department:

(a) All executive and administrative functions;

(b) Supervision and conduct of the educational program hereinafter outlined.

2. Department of Justice: Enforcement of the penal provisions of this law should be placed under the Department of Justice, thereby co-ordinating the work, fixing the responsibility more directly, securing a higher type of personnel and a better morale.

Part II—Education Program to Put Public Opinion Back of Amendment

A large percentage of the people oppose this Amendment. Public sentiment must be put behind it. This can be done by education. Wet organizations under high-sounding names are active with propaganda. Drys must be equally so. A mere "law observance" program will not suffice.

There must be continuous—

A. Education

1. As to effects of intoxicating liquors: The temperance organizations should renew and redouble their activities in teaching **the effect of alcohol in impairing mental and industrial efficiency,** causing crime, misery, poverty, industrial accidents, and economic and spiritual loss. Total abstinence is spreading in England and Scotland. It should be emphasized and encouraged here in every possible manner.

2. As to respect for all laws: There is wholesale violation, not only of prohibition, but of all laws. The Employers' Association of Chicago reported that there are 168 "rackets" or organized criminal attacks on business in that city, levying tribute of $100,000,000 a year.

Respect for law and a civic conscience must be restored.

3. To bring about the enactment of state legislation, putting the state and local peace officers, courts, and prosecuting officers back of the 18th Amendment: States must help. State, city, and local courts, magistrates, prosecuting and peace officers must back the Amendment. Civic organizations should be formed to bring about speedy enactment of such legislation in every state where it is not now on the statute books.

B. The President Should Be the Leader in this Educational Movement

Mr. Hoover, at Elizabethton, Tenn., October 7, 1928, said:

"The purpose of the 18th Amendment is to protect the American home. * * * I wish it to succeed."

All the people must be taught to believe this. The Amendment will then become effective.

Most of the protection of the American home is secured from state legislation and local ordinances, enforced by state and local courts and peace officers.

This was true of prohibition before the Amendment was adopted. The people must co-operate to make this amendment effective. Public sentiment must be put behind it. The President can do this more effectively than anyone else.

1. A message to the people from Mr. Hoover: Along the lines of education of the people and revivifying the public conscience it would be very effective and entirely fitting if President-elect Hoover should start the revival of the educational program by giving a message to the American people setting forth:

(a) The reasons for the adoption of the Amendment.

(b) Telling them that their co-operation by personal observance of the law and co-operation in an educational program is necessary to make the Amendment effective.

(c) Announcing that he intends to call a national conference on the subject.

2. A national conference should be called by Mr.

Hoover: **There should be formed in this country a national association to promote total abstinence and make the 18th Amendment effective.**

Mr. Hoover, after his inauguration, might well follow up the message to the people by calling **a conference at Washington** of governors, mayors, chiefs of police, judges, prosecuting officials, and a carefully selected list of heads of transportation lines, large industries, life insurance companies, editors, publicists, and other representative citizens of all professions and walks of life from all sections of the country to consider:

(a) The problems of enforcement.
(b) **The successes of enforcement.**
(c) The failures of enforcement.
(d) The remedies.

The list of names of those invited and their positions in life should be given out to the press. This would be a coming together of the government and business and the citizens. **Its proceedings would attract great attention and would be spread broadcast** by the press and radio, by the churches, schools and colleges and would give a new and nation-wide interest in the 18th Amendment.

The conference would result in valuable information and concrete suggestions.

Out of it should come the formation of a permanent nation-wide organization, non-partisan, non-sectarian, which any man, woman, or child could join, like the Red Cross, having local chapters, local drives, educational propaganda, tag days, and other activities tending to help the parents teach the children and the children to lead the parents and stir up state, city, and community interest in total abstinence and the support of the Amendment.

C. Elections

1. National: **The recent election demonstrated that the Amendment is here to say.** We have a President pledged to make the Amendment effective, who says, "I wish it to succeed."

The Congress is of the same mind.

2. State and local elections: **State aid is necessary in enforcement.**

If a candidate enters the primary of either party or is nominated for governor, mayor, or other office, who is a wet, effective action should be taken to **nominate an opposing candidate of equal capacity who is avowedly and actually in favor of making the 18th Amendment effective.**

This is part of the "educational" program.

Conclusion

Whoever made this world has infinite patience. Toward prohibition He has given us a starting point in the 18th Amendment. It can not be made effective in a day. But with state legislation and enforcement and a public conscience and respect for law and total abstinence restored by ceaseless education, the Amendment can be made effective.

Most important and absolutely essential is education, education, education, and a new national association to spread the economic and spiritual benefits of total abstinence and to bring about a restored public conscience and a restored respect for law both by citizens and by the officials elected by them and the election of officials who will respect the law.

SUCCESS IN UNDER-COVER WORK

Al Bentley, Police Officer
Huntington Park, California

THE prohibition laws are among the easiest laws we have to enforce, if gone about intelligently, but other and more stringent laws are needed.

First there should be a law **making the manufacture and sale of intoxicating liquor a felony,** and providing a very heavy penalty of both fine **and imprisonment** to apply automatically on conviction, so that if the courts are not inclined to enforce prohibition they have no choice but to pronounce sentence.

The liquor traffic is conducted entirely for the profits, and as everyone engaging in it knows it is unlawful, imprisonment is the best deterrent.

There should also be a law compelling **deportation of every foreign born person convicted** of violation of the prohibition laws, as soon as they have served their sentence.

As the liquor business is purely commercial, the bootlegger is the logical one to work on, for he is the retail distributor, and as his profits are from his sales to the consumer he is more likely to sell to anyone. So he is **easier and cheaper to catch than the runners or the moonshiners,** for they have to depend on him as a distributor. The runner is not going to pull his truck up onto a vacant corner, like a fruit or melon peddler, and say "Come and get it, fellows," and the moonshiner is not going to have the public running to his still for their booze. So **when you do away with the bootlegger you automatically do away with the moonshiner and the runner.**

Now for enforcement, laws should be passed whereby in any state, county, or city, where the prohibition laws are not enforced, the United States government can go in and enforce the laws and **compel localities to pay the costs.**

Also the federal government should have authority to **remove and replace the negligent or criminal local officials.**

There should be a law carrying **a penalty of 10 years** in the penitentiary **for any officer or official convicted of conspiracy to violate the prohibition laws.**

Civil Service Now Aids Bootlegging

All federal prohibition agents should be placed and kept for **ability alone.** No congressman, senator or any organization should be allowed to use influence to keep an agent in service unless he is able to go out and get his cases and convictions.

The prohibition service needs rebuilding from Washington to the most distant subordinate.

The present civil service plan is the biggest protection the bootlegger ever had. A man may be able to pass that examination and not have the least ability as an enforcement officer. The **thousands of cases thrown out of court because of insufficient evidence, illegal raiding and other ignorant practices attest that.** Very few judges are going to throw cases out if there is good plain evidence and it is gotten legally. Too many agents, as soon as they are appointed, become bigoted and seem to think they can get by with anything, no matter how raw, and that is one reason today that prohibition is not better enforced.

The fact that a man has a commission as a federal prohibition agent **is no guarantee that he has any intelligence or ability in that line.** I have worked with men that could hardly pass above reading and writing, but they got their cases, took them into court, and got convictions with a possible loss of one case in 100. Get plenty of evidence and get it legally and you will have no trouble getting convictions. The convictions are what count.

The **present practice called enforcement can hardly be considered anything but hi-jacking** with illegal search warrants, sometimes none at all, and then expecting the courts to sustain them. **That is criminal ignorance.**

In getting cases **two operatives should always go together**

into a district and work separately and in different parts until they have established their standing with the bootleggers. One man may be able to get in where another can't. After they are able to buy they should get together and visit all places where they have bought and buy and double on all cases. Always buy a bottle if possible, and seal and label it for use in court, for in that way you have positive evidence. Work quietly and line up as many cases as possible before starting to raid. (I sometimes line up 50 or 60 cases before I make an arrest, and in my experience of seven years in a half dozen states and 20 counties, I have **lost but one case in court,** and I have a record of the largest per cent of guilty pleas of any police officer in the northwest.

If you follow the present practice of going into a district and make a buy and raid right away, you tip yourself off and end your usefulness right there. You also have the bootleggers all stirred up and on the look-out, so that it will be almost impossible for another operative to get in on them. They will be very much afraid of any stranger for some time.

All cases should be gotten on buys of liquor and should be doubled on. If the liquor is produced you will get a conviction in any court.

Another thing is that **under-cover operatives should never be interfered with in their work,** for they have their fingers on the bootleggers all the time and know better than any one how to handle them.

If the under-cover man didn't have more ability than those that employ him they wouldn't need him, and if he hasn't the ability, get rid of him.

The under-cover man is indispensable, for **if the average prohibition officer had as much sense as the bootleggers** the country would be entirely dry now.

Prohibit Malts for Home Brew

The home-brew situation is not serious if Congress will pass laws **making it a felony to sell malt and other supplies for making it,** and compelling dealers who handle them for legitimate purposes **to keep on record all sales.** With such

provisions home-brewing would soon be a thing of the past.

Remember, **the bootlegger is the real menace,** and when you hear some officer or politician preaching "never mind the bootlegger, get the big fellow" put that fellow down as ignorant or a crook, for you can catch 500 bootleggers where you catch one of the big fellows (meaning the moonshiner and the runner) at one-tenth the cost, and **you get rid of both, for the others can not exist without the bootlegger.** And as enforcement depends entirely on getting the evidence, federal prohibition agents who can not go out and buy from the bootleggers have no business in the service.

Other legislation that would be of inestimable value would be **abatement from one to two years of all premises, to follow automatically with the penalty imposed on the bootlegger, without other proceedings.**

MOLD PUBLIC OPINION

Alida C. Bowler
Director, Division of Public Relations
Los Angeles Police Department

ENFORCEMENT of the 18th Amendment to the Constitution of the United States, and of the federal and state legislative enactments designed to support its provisions, will become effective **only when a sufficient number of citizens, sincerely desirous of seeing it enforced, become as actively and intelligently interested in bringing about its success as those who profit from its disregard now are in working for its failure.**

At the present time but a small minority group is voicing an organized demand for "liquor law" enforcement. Their activities **have not been indicative of intelligent, co-ordinated national direction** and have been, for the most part, ineffective, and in many instances misdirected.

When all is said and done local, state and federal government in these United States lies in the hands of the people to do with as they will. **So long as the great mass supinely wills to do nothing—nothing is done.**

Elected officialdom listens to the voice of those who elect by contributing to campaign funds and by furnishing the executive ability and the P. T. Barnum insight into mass psychology essential to campaign success. The campaign funds may be, and usually are, used to put forth campaign propaganda expertly edited to tickle the taste of that particular portion of the public to whom it is being issued.

But **when the elected official molds his practical policies,** he consults neither his own pre-election propaganda nor the consumers thereof. With hard-headed business acumen **he consults those who managed his campaign and paid for it.**

No one knows better than does the official charged with enforcing the liquor laws who it is that constitutes the "market" for the bootleggers' wares. In the owners of the throats down which the illicit liquor flows he is face to face with everything from the gutter drunk to the leaders of that business and professional world upon which rests the very foundation of his community's economic and social welfare. **It is not the gutter drunk's money that builds up the enormous fortunes which enable the bootlegging "industry" to go its arrogant way today.**

Marshal the Facts

Obviously any practical proposal for making enforcement of the 18th Amendment effective must start with an **intelligently planned program for changing the public attitude toward the consumption of alcoholic liquor in defiance of the Constitution** of the United States **and all the dictates of loyal citizenship.** It is equally obvious to any practical psychologist, who has made an analysis of the average American citizen in action, that **he can be led with infinitely greater ease than he can be driven.**

Two things are essential. First there must be assembled **an array of incontrovertible facts, nowhere now available,** concerning the bootleg industry in the United States today, its methods, its wares, its multifarious activities, its crime-breeding alliances, and its too frequently successful evasion of arrest, of conviction if arrested or of adequate penalties if arrested and convicted.

In the second place, **these facts must be disseminated in a supremely skilful manner** so as to convince each loyal citizen to whom they may be presented of the genuineness of the national menace that they constitute.

In other words, **it is high time persons cognizant of this national menace made use of legitimate propaganda channels** to lead the American people to a realization of their present situation and to appropriate individual and mass action. The exact nature of the action that should be taken can be determined only when such facts are assembled

and studied by proper experts. The plan here proposed contemplates effecting this great citizen educational movement in the following manner:

I. Organize a Commission for Support of the 18th Amendment

This commission would be composed of men and women chosen with great care,—persons of national repute for fairness, for selfless interest in national well-being and for cool-headed executive ability and leadership.

It would be a **small body,** preferably not more than 20 in number. Of these 20 members one should be the personal representative of the President of the United States. Ten should be members at large,—five men whose standing in the business and industrial world is such as to challenge attention for any public statements sponsored by them, and five women equally well known to the feminine half of the body politic as well balanced thinkers and leaders. The other nine members should represent specific national groups, such as:—

U. S. Chamber of Commerce,
American Bar Association,
American Bankers' Association,
American Medical Association,
Protestant Churches in the United States,
Catholic Church in the United States,
National Woman's Council,
National Educational Association,
National Conference of Social Work.

II. Establish a Fund to Be Expended By This Commission on Research and Publicity Work

This fund should be sufficient to make possible the expenditure of not less than $250,000 annually for five years, and preferably double that amount.

III. Employ a Small Group of Experts

The research and publicity work would be placed by the commission in the hands of a body of technical experts of

the highest caliber available, the salary scale being set at a sufficiently high level to secure the best to be had in brains, training and experience. Executive direction and responsibility for successful functioning would be vested in the commission's director of research and public relations.

This director would employ as his immediate assistants experts in the following fields: investigation, chemistry, biology, economics, statistics and publicity. The duties of these assistant directors would be:

1. Investigation

To employ and direct a small but highly mobile force of under-cover agents for the purpose of securing data on typical bootlegging operations of various sorts in different sections of the United States, with particular reference to—

(1) Importing activities via the border and the high seas,

(2) Transportation of imported liquor and alcohol,

(3) Extent and nature of local manufacture of alcohol and alcoholic liquor, typical of national situation as a whole,

(4) Methods of "marketing" both the imported and local products,

(5) Extent and nature of "home brewing" as indicated by gross sales of home-brew materials and equipment,

(6) Securing typical samples of alcoholic liquor now being consumed in the United States with "market prices" thereof,

(7) **Liaisons between bootleggers and enforcement officers, district attorneys' offices, other public officials,** and

(8) **Connection between bootleg industry and other forms of crime.**

Much valuable data along these lines could be readily secured from experienced public officials, if their co-operation were sought in the proper spirit. Many could be found who would be glad to assist in such a movement if sponsored by responsible citizens whose own interest, integrity, judgment and fairness are beyond question.

2. Chemistry

To make a careful chemical analysis of samples of bootleg liquor secured by under-cover agents, and to prepare scientific reports on the actual content of liquors being sold under various labels and seals, at various prices.

3. Biology

To prepare analyses of the effect on the human body of consuming such materials as are found by chemist.

4. Economics

To assemble, systematize, analyze and determine the significance of data relative to the **economic phases of prohibition as now practiced,**—in industry, in business, in the banking world, in public health, etc.

5. Statistics

To assemble, analyze and tabulate statistical data from all of the principal cities, from as many rural sections as possible, and from the federal agencies relative to

(1) Arrests for violations of federal and state liquor laws, or county and city liquor ordinances,

(2) **Final disposition** of all cases arrested, showing dismissals, acquittals, convictions, sentences imposed, fines paid, prison terms served and appeals filed with ultimate decisions rendered,

(3) **Property confiscated** under liquor laws,

(4) **Premises padlocked,**

(5) Damages directly resulting from use of illicit liquor (for example, estimated or actual hotel losses from drinking bouts in private rooms, etc.),

(6) Any vital statistics having any bearings on prohibition enforcement.

6. Publicity

To plan the effective use of the information gathered by the other branches of the service. This is perhaps the most important activity of all since knowledge of this kind is of little use until disseminated. The chief of this service must

be a propagandist of propagandists and an executive of executives. He must **secure nation-wide co-operation** from all types of educational and publicity agencies. He must build up a staff who can **make the most deadly scientific data not only palatable but alluring and convincing to the average American citizen.** It can be done. Ask any successful advertising agency.

In addition to actively distributing sound prohibition propaganda he will serve as a **recognized source from whom the thousands of men's and women's organizations** with civic welfare genuinely at heart, but **now floundering in a sea of doubt, can obtain truth—facts susceptible of proof and demonstration.**

Those of us with experience in the actual enforcement field today are **familiar with the honest official's complete lack of public support, with the clever distortion of official stories to make a "goat" of the honest man and a popular hero of the "good fellow" official.**

Dishonest Officials Fear Light

We are familiar with the **genuine terror felt by the dishonest official and the manipulating politician when there is an informed and aroused public.**

Such a working organization as is outlined here would bring **new hope to the honest official—and strike true terror to the heart of the bootlegger, the dishonest official and the manipulating politician.** They are well aware that their present powerful immunity and patronage rest upon the somnolent ignorance of the American public as to the complete character and true significance of their activities.

The only practical issue is, whether or not 20 citizens can be found of the caliber and character needed for such a commission who will give their time and energy to it. And whether there are enough of our famous moneyed Americans sufficiently interested to create this fund for the **research necessary to expose the condition that is bringing about a state of lawlessness and contempt for government which is closely akin to anarchy.**

MODERNIZE THE FEDERAL JUDICIAL SYSTEM

J. O. Brown, Jr.
United States Commissioner, Sacramento, California

THE problem of better enforcement of the 18th Amendment to the Constitution of the United States is simple of solution, **if we have the courage to apply the remedy.**

The purpose of this paper is to suggest such remedy. It does not pretend to discuss the moral, religious or political aspects of prohibition. These are important, but the one thing most important is to offer "a practicable plan to make the 18th Amendment effective." This is Mr. Durant's specific request and to this alone I apply myself, drawing upon first hand and intimate experience with prohibition for many years.

In the first place, the passage of the 18th Amendment to the Constitution gave birth to national prohibition. Congress thereafter passed an enabling act in the form of the Volstead Act which **put teeth into the national prohibition baby.**

At the inception, therefore, one thing is clear: **prohibition is the child of the federal government.** Be it for better or worse, richer or poorer, wetter or drier, it cannot be gainsaid that **national prohibition was created by the people in their national capacity.** The wet states were against it then, and have since passed enabling acts only upon the principle of the duty of the state toward the federal government. They are dry in form, but inherently the people have not changed. There were a few bone dry states before the 18th Amendment and even these states show a wetter attitude, as far as concerns records of arrest by local authorities, than they did before national prohibition. This is due to the inherent desire of the state

to be free from the domination of the central or federal government, a throw-back to the Anglo-Saxon fear of too much power in the crown.

What did the federal government do after it passed the Volstead Act? It created a commissioner of prohibition, an appointive position, and this appointee appointed directors in the different federal districts. These latter appointees appointed agents to work on enforcement in their districts. The first directors were largely found in the ranks of the old internal revenue department, having had some experience with this type of problem.

Penny Wise, Pound Foolish

What else was done? The whole structure was put on an appropriation basis. Areas as large as all of Northern California and the State of Nevada were manned by about only 45 federal prohibition agents. **The folly of such a feeble attempt to dam a veritable "Mississippi" was apparent on the face of things.** How can only 45 men dry up Northern California when three times as many policemen in one of our small cities are unable to dry up their little area?

Right here is where a fatal mistake was made by the federal government. This is a **national** law. **The government should have gone on with the necessary machinery to enforce it.** She was morally bound to do this, even though we were all taxed to death to accomplish it. We, the sovereign people, would have soon decided whether enforcement was worth the price. Long ago the law would have been either enforced by the federal government or changed in some manner by the sovereign people.

The federal government, however, **listening to political pleas for economy and compromise,** took this position: "We have given the people prohibition, **now let the states carry out its enforcement.** Let all good, law-abiding, Washington-fearing states pass local Volstead Acts and take over this problem so that the dignity of the federal government will not have to stoop to police court affairs!"

The sovereign people of the United States passed national prohibition and delegated its enforcement to the federal government! We cannot sit back now and talk about states' rights. **We should enforce the law the way we started out to,** and if we feel,—**not that it cannot be enforced,** which would be proof that our government itself is weak and tottering, but—**that we do not want to go on with it,** then let us, the people, repeal or modify it.

Enforce or Repeal

The fact is, national prohibition is the law. As a law it must be enforced. Its enforceability should not be a question. **The law, while it is on the books, must be enforced if it takes a war to do it. If it is not worth a war, repeal it.** We fought the Civil War over a principle. It would have been far easier to allow the states to secede, but we decided that in spite of its abuses, a strong federal government was preferable to a loose confederacy of states.

What should the federal government have done that it did not do, to enforce the Volstead Act? **What shall be done now?**

First, the federal government must **recognize its paternity of the prohibition child,** now ten years old. It should **immediately double the appropriation for enforcement, and increase the enforcement personnel 50 per cent.** Individual agents should receive **increases in salary.** Every conscientious prohibition agent, most of whom work from 16 to 20 hours a day, should receive a minimum wage of $250 per month. Strange as it may seem to many, the **average new agent** is honest and hard working. It is **only after he is tied up in red tape, quizzed by investigators and finds himself working 20 hours a day for about $140 per month,** that his integrity is undermined.

Next, a **Department of Prohibition should be created.** All officers and agents should be placed under **civil service.** The department must be **unhampered by political appointments.** This department would function like the Depart-

ment of Justice, it being unnecessary and impossible to go into detail here.

Pay and Back Agents

An increase in agents' salaries would attract a better quality of men, which is more important than numbers.

If a body of capable men felt that they really had the government behind them, that their jobs were copper-riveted, that they would win praise and reward for rigid enforcement, **they could come close to drying up the largest city in a few weeks.**

If the gangsters knew that the officers really meant business and **had the machinery of the great federal courts absolutely behind them,** there would be no "gang wars." Gang wars are a result of double-crossing. You do not read of many London policemen being killed even in the toughest districts of that immense city. The law is respected and the "Bobby" is the emblem of that law. Likewise would our federal agents be feared and respected if the federal government were equipped to back them up.

The truth is, **the federal government has thrown up its hands over the matter of enforcement,** and the reason is because the federal criminal judicial machinery has not been changed materially since it was enacted.

Criminal Courts 50 Years Behind

In an age of tremendous progress and complexity **the country is fifty years behind in its criminal law machinery** and nowhere is this more evident than in the federal branch. **There is no such thing as a federal police or justice's court.** In spite of the fact that there have been passed the Harrison Narcotic Act, the Jones-Miller (Narcotic) Act, the White Slave Traffic Act, the National Motor Vehicle Theft Act, the Volstead Act and countless other criminal statutes, the **federal courts have made no provision to take care of the increasing business.**

Yet we hear learned advocates decrying the encroachment of the federal government upon the police powers of

the state! Rubbish! The framers of the Constitution intended that document to be elastic enough to keep abreast of the times. We have passed these federal laws, and impliedly we, the sovereign people, are demanding that our governmental judicial machinery be developed to take care of our needs.

We have a large number of United States commissioners, appointed by the federal courts by reference to an act nearly eighty years old. These commissioners are committing magistrates with very limited powers. They cannot fine nor imprison, even in the slightest misdemeanor cases. They can only "bind over" the defendant to the court. On the other hand, the United States district attorney can refuse to file an information or refuse to have a defendant indicted after the commissioner has held him, or can file against a defendant who has been released by the commissioner—all nonsensical, lost motion!

Federal Police Courts

An inferior federal court should be organized by Congress at once, called by any name you will, and the judge thereof should dispose of misdemeanors, which means about 95 per cent of all Volstead cases, immediately after the arrest. The punishment is then speedy, instead of the present interminable process incidental to placing a case upon the federal calendar.

All federal judges are appointed for life—which makes them immune to the fears of political influence and the federal court thus becomes the nemesis of crime. The cost of maintaining this court would be no more and possibly less than the present costs, and the increased revenue from fines would put enforcement upon a sounder financial basis.

Upon the second conviction on sale or nuisance counts (of either the defendant or the place raided), the jail term, maximum fine, deportation of alien defendants and abatement of the premises without a re-opening bond should be mandatory by the act itself.

A special staff of assistant United States district attor-

neys should be assigned to prohibition, one for trials, one for abatements, deportations, and so on.

All cases made by federal agents should be prosecuted in these federal courts and not turned over to the state courts, a vicious practice resulting in frequent double convictions for the same offense, and frequently done so that counties and cities will swell their treasuries with the fines levied and so the local federal prohibition agent will make friends with local officials.

The more flagrant violations would, of course, be held for the higher court and for grand jury indictments as is the case now, but **fully 90 per cent of the cases would be disposed of by the federal police court immediately,** obviating the necessity of bail bonds; **congestion would be relieved and enforcement made speedy and certain.**

Take Profit from Bootlegging

The bootlegger would make very little profit after paying the maximum fine, forfeiting a $500 bond to the property owner for abatement, and having to move to a new location and put up another bond, together with a big salary to the "donkey" in jail to keep him from telling the trade secrets.

In a word, **take the profit out of bootlegging and you end bootlegging;** let the enforcement agents know that they will make more money in the long run by going straight and keeping their jobs, than by taking bribes and risking loss, not of jobs only, but even of liberty and life itself. **Then prohibition will begin to prohibit.**

Get the cobwebs out of the federal criminal judicial system and modernize it to a point where it will function satisfactorily for twentieth century progress. Congestion will cease and the entire machinery of law enforcement will become a source of pride to the people for whose benefit it exists.

Pride in law and order penetrates the hardest criminal; he respects and admires a courageous officer. Soon there will be fewer gang outrages and **wide respect for the deadly certainty with which the punishment follows the crime.**

A NATIONAL LEAGUE TO EDUCATE

J. A. Buchanan
Municipal Judge, Astoria, Oregon

THERE can be no doubt in the minds of thinking men that the 18th Amendment is in the Constitution to stay and that the people of the United States want it enforced.

It is an undisputed fact that the major part of the crime of the country is caused by violation of the prohibition law. What, then, would be the most "effective plan" for its enforcement?

Perhaps the Volstead Act, or any other act that might take its place, can not be enforced 100% under present conditions. **No prohibitory law ever has been, not even the law against murder.** But it can and should be enforced to the greatest limit of possibility.

No law will enforce itself, and **no law can be effectively enforced until there is an unmistakable popular demand for its enforcement.** There must be not only sufficient law-enforcing machinery, but **the public must also be educated to the point that enforcement will be demanded.**

The forces that brought about prohibition made their initial mistake when that task had been accomplished. Having placed the 18th Amendment in the Constitution, they rested serenely from their labors, and **forgot that the most difficult part remained yet to be performed, that of enforcement of the law.** They should have remembered that its enemies never sleep, that they would attack the law from every possible angle. It is still true that "eternal vigilance is the price of liberty."

A New Agency Needed

The Anti-Saloon League performed in its time a great work, but its usefulness, at least under that name, is a

thing of the past. This nation has decreed against the saloons, and we shall never again have that particular menace. Why not enlist the forces of the Anti-Saloon League with all other patriotic agencies in **a new national organization to be called "The National 18th Amendment Law Enforcement League," for the education of the public,** so that all classes in all states will demand enforcement?

If such an organization were formed and **would put forth as much effort in helping to enforce the law as all such agencies did in securing its enactment the problem would be largely solved.** Its object would be to educate the people to the importance of enforcement, through righteous propaganda.

There are still millions of good people in this country who are earnestly in favor of the 18th Amendment and would like to see it enforced, but who, from business or other reasons, **do not want to have any hand in its enforcement. They should be taught the duties and responsibilities of citizenship.**

Jurors should be encouraged by an awakened public opinion to **convict bootleggers upon sufficient convincing evidence.**

Stiff Jail Sentences

Judges should not hesitate to **assess penalties** upon conviction that will be adequate in the premises.

Jurors and judges, and the general public, must be taught to **regard the man who drives an automobile while intoxicated as a potential murderer,** and that he should be punished accordingly.

The chief difficulty in enforcing the law has been **jurors who will not convict and judges who make the penalty too light,** all for the lack of an active public consciousness and demand that the law be enforced.

What does a bootlegger care for a paltry fine of a few hundred dollars? He is turned loose upon the public, and in a short time he has it all back and more, for as long as he is allowed to operate he will find customers. **A stiff jail sentence** in addition to the fine would go far toward con-

vincing the bootlegger that it does not pay any longer.

There are still many individuals and organizations with the feeling that a banquet or dinner, or other social function, is not complete without "booze." This is still prevalent in so-called "high society," in many private homes, and in high government circles, though the practice is decreasing. The man or woman who serves to guests intoxicating liquors in the home should have the same treatment as the common bootlegger. Both are a menace to society, and deserve punishment for violation of law. When we begin to make exceptions of any particular individual or class the law is brought into disrepute with all classes.

Partiality Hurts Enforcement

Government officials, and particularly those who are sworn to enforce the law, **when detected in its violation, should receive severe punishment.**

Nothing serves to retard the enforcement of the law so much as the continual punishment of the humbler citizens, even the "common drunks," **while those in "high places" escape.**

The law is made for all the inhabitants of these United States, and should be impartially enforced, regardless of wealth, position, rank or influence. The rich and the poor, the high and the low, the citizen and the alien should be treated alike. There should be no favored few, there should be no discrimination, there should be no exempt individual nor class, but the law should be enforced for all the people, without favor to any particular person or organization, and without fear of the consequences.

When big business men, men in society, government officials, violate the law with impunity, **how can we expect the day laborer to respect it? The fact that the law is impartially enforced will go far toward making enforcement popular.**

Unhamper the President

Congress should strengthen the arm of the President in the matter of the enforcement of the Volstead Act. Realiz-

ing the supreme importance of the effort, Congress should willingly and promptly **grant appropriation for funds thought necessary to do the work effectively,** remembering that the law will not enforce itself but must be enforced like any other criminal law. The hands of the President should not be tied, **nor his efforts hampered in any way in its enforcement for lack of funds.** That surely is the expressed will of the American people.

A trusted corps of **federal prohibition officers,** selected without regard to political or religious affiliations, **should be located in every state.** They should not be officious and offensive, but courteous and courageous, with a conscientious regard for duty well performed. They should **willingly co-operate with the state officials** whenever possible. If state officials should not be willing to co-operate with them, they should proceed actively without them, filing all complaints in the federal courts. The manner and spirit in which a duty of that kind is performed often determines the favor with which it will be received by the public.

Greatest Blow to Bootlegging

Congress should do another thing that would help materially in the enforcement of the 18th Amendment. Unfortunately, we have within our borders several hundred thousand aliens who are not making and never have made any effort to become citizens. Many of that class do not want to become citizens, and would not accept citizenship if it were offered to them. A very large number are born criminals, and yet, having been in the United States more than five years, they can not be deported except upon conviction of a felony, or its equivalent, in a federal court.

In the writer's territory a very large percent of those engaged in the illicit manufacture and sale of intoxicating liquors are aliens, and we are sure that is true in most of our large cities. Congress should pass a law **authorizing the deportation of all aliens found guilty, in any court, of violating the Volstead Act, or other prohibition laws, state or federal.**

Such a law would provide the means for deportation of a very large number of undesirable aliens who have passed the five-year-residence limit, and would be the **greatest blow that could be struck immediately against the bootlegging business.**

It would rid the country of an element as dangerous as it is numerous, including radicals and communists, and violators of every law on the statute books. To my mind such a law is an imperative necessity, regardless of the assistance it would give to enforcement of the prohibition law.

Teach Observance of All Law

I wish to emphasize the thought that I have tried to keep foremost in this article, that **enforcement must come through popular demand and that demand must come through education.** For that purpose there should be formed a national organization. Call it the "National 18th Amendment Law Enforcement League," or any other appropriate name, but its purpose should be to **educate the people to the necessity of obedience to law,** not only the Volstead Act, but to all laws. Not only that the citizen should be obedient to law, but also that **each should do his part in its enforcement.**

A local branch should be established in every county and in every city, and should enlist the support of all good citizens, irrespective of religious or political affiliations. **Educate! Educate! Educate!**

Educate judges and jurors, teachers, preachers and laymen, the big business men, the men in the shops, the children in our schools, and every citizen, in the **duties and responsibilities of citizenship.** Educate until the demand for enforcement of the 18th Amendment, and of all other laws, shall become universal.

Success Takes Time

Prohibition is not a failure. Ten years is a short time in the history of a nation, and not sufficient time to give any good law a fair trial, particularly when it is opposed by a

vociferous minority. Yet, in that time in most of the states wonderful strides have been made in the enforcement of the prohibition law. It has been and may now be a "noble experiment," but the American people have decreed that it must and shall become an established fact. It can not be otherwise. The world is advancing, and America is leading the world. That is our destiny—to lead all the nations of the world to the true meaning of liberty under the law and rule by the majority.

It will be only a matter of time when all nations, following our lead, will adopt the principles of the 18th Amendment. It is the oracle of fate; it is the will of the Supreme Ruler of the Universe.

LET STATES FIX ALCOHOLIC CONTENT

Justice Rivers Buford
Supreme Court, Florida

THE 18th Amendment is as follows:

> **"Section 1. After one year from the ratification of this article, the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes, is hereby prohibited.**
>
> **"Section 2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.**
>
> **"Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress."**

It will be observed that this Amendment prohibits the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof, for beverage purposes.

It does not apply to all alcoholic liquors, but **only to such alcoholic liquors as are in fact intoxicating.**

To make the provisions of this section of the Constitution effective the Congress **may either prohibit or regulate the sale of alcoholic liquors which are not in fact intoxicating.** To that end I suggest:

1. That the Enforcement Act be amended so as to prohibit the manufacture, sale or transportation of alcoholic

liquors containing 5% or more of alcohol by volume within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes.

2. To make effective the first suggestion, provide that it shall be unlawful to manufacture, sell or transport alcoholic liquors containing more than one-half of 1% and less than 5% of alcohol by volume within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes, **except when such liquors shall have had paid thereon such revenue tax** as shall have been fixed by federal law, and shall have had paid thereon such **state sales tax** as may have been placed thereon by authority of law of the state where same is offered for sale. And **not** then shall this be lawful in any state or territory of the United States **until and unless** such state or territory shall, by statute duly enacted by the law-making power, have authorized the sale of such alcoholic liquor containing more than one-half of 1% and less than 5% of alcohol by volume, **and then only under such conditions as shall have been prescribed by the state statutes** governing and controlling the same.

This law should provide that such liquors may be sold only in **sealed containers,** which containers shall have been filled and sealed **under government supervision,** and the **contents thereof tested by federal inspectors,** and which containers shall **bear a federal stamp** showing the amount of liquor contained, the date of its sealing and the percentage of alcohol by volume of the contents.

Scientifically Determine "Intoxicating"

3. That every purchase and sale of alcoholic liquors for beverage purposes in conflict with the provisions of the Act **shall constitute a conspiracy to violate the Act,** in which **all persons connected with either the purchase or the sale, or both, shall be held to be conspirators, and shall be punishable as such.**

4. Place the **administrator of the revenue features** of the Act under the supervision of the federal Treasury but place

the responsibility for enforcing it under the Department of Justice and provide for the appointment and employment of all enforcement officers, except prosecuting attorneys, under civil service regulations.

Provide for the appointment or employment of as many such officers as in the judgment of the Attorney-General shall be necessary, with the provision that such enforcement officers shall at all times be under the direction of the Attorney-General of the United States either acting in person or through the respective United States district attorneys throughout the United States and all its territories.

5. I do not suggest the minimum of 5% of alcohol by volume as the necessary figure to be written into the law. The minimum percentage of alcohol by volume required to cause a liquor to properly and reasonably be designated as intoxicating when used as a beverage should be scientifically determined and that figure should be used.

SPEND WHATEVER IS NEEDED

Bishop James Cannon, Jr.
Chairman, Board of Temperance and Social Service, Methodist Episcopal Church South

THE 18th Amendment was adopted after years of effort by the American people to reduce to a minimum admittedly great evils arising from the traffic in intoxicants.

The purpose of the 18th Amendment is "to promote the general welfare" by restricting the activities of individual citizens in the manufacture, sale, transportation, exportation and importation of intoxicating liquors for beverage purposes.

Intoxication is that condition in which a citizen has lost control of his physical, intellectual and moral powers, in short, of himself.

The purpose of the 18th Amendment, therefore, is to **promote the general welfare by prohibiting a traffic which experience has demonstrated causes millions of citizens to lose control of themselves,** to become not only unfitted to perform properly the duties which they owe to the state, to society at large, to their families, but to become a public menace, indeed, a public nuisance.

Because of its indisputably damning record, the **abolition of the traffic was demanded by the present-day social conscience of the American people.** This social conscience declares the rights and duties of organized society, **brushing aside justly, without hesitation, any claim of any individual to perform any action or enjoy any privilege, which action or indulgence is a menace to the physical, economic and moral welfare of community life.**

The social conscience of today absolutely refuses to recognize anything as private life which affects the general welfare and orders that all opportunities for indulgence of

appetite be prohibited, if in providing such opportunities the best interests of society suffer.

Protect Society First

This prohibitory method may excite resentment, a determination by the selfish offenders to indulge the clamoring appetite, despite any law, however drastic. But organized society or government has swept in its aim beyond the simple question of reform of an individual for his own sake alone (which is truly most desirable) to the broader question of how society can best protect itself from the selfish indulgence of such individuals.

Many examples could be given of **restrictions of personal conduct for the protection of society**: present-day traffic compels **stringent restrictive speed laws and sober drivers; wooden buildings are prohibited in business districts; quarantine laws** detain men on ships; **smoking is forbidden in powder mills or garages; taxation compels men to surrender needed income for roads, police protection, education, etc.**

Social Minded, Not Puritanical

The 18th Amendment **is not, therefore, evidence of a Puritanical spirit,** compelling acceptance of distasteful restrictions by opponents of prohibition legislation, **but is based upon the unquestioned right of society to protect itself from selfish individualism.**

The twin tap-roots of prohibition violations are appetite and covetousness. Administration of the law must reckon with two classes: those who put gratification of appetite, or who put desire for gain, above social good and respect for law. The practical problem presented is how to convince these two classes that it is better for them to comply with the prohibition law.

The higher appeal is to unselfish patriotism: to urge the patriotic duty of compliance with the expressed will of the majority of American citizens. This appeal must be tremendously emphasized by such agencies as the home, school, church, by social and patriotic organizations, and by governmental agencies also. **The shame of disloyalty, the dis-**

grace of lawlessness, must be emphasized apart from any threat of penalties.

But for those whom such appeals will not reach such punitive measures must be adopted as will make the difficulty, risk and expense of securing intoxicants and the certainty and severity of punishment of manufacturers and sellers of intoxicants so great that slaves of appetite and covetousness will hesitate, shrink back, and most of them finally refuse to pay such heavy cost for either indulgence or gain.

Two Distinct Factors

The best and most practicable plan to make the 18th Amendment effective must, therefore, include two distinct factors:

Carefully studied, thoroughly organized and persistently followed methods to prove conclusively to the childhood, youth and manhood of the nation that the traffic in intoxicating liquors is detrimental to the physical, intellectual and moral powers of average citizens (and, therefore, to their happiness and best interests) and to the economic, social and home life of the people in general;

A careful study of present state and federal prohibition enforcement legislation, and an emphatic declaration of the government's purpose to determine and to enact whatever amendment, or whatever additional legislation, if any, may be necessary to render the undetected manufacture, sale, transportation, exportation, or importation of intoxicants so exceedingly difficult, and punishment for such crimes so certain and severe as to appal and deter the most covetous, daring and hardened criminal.

A Presidential Declaration

Some specifications under the above are:

1st. The President of the United States, as the chief executive officer of the federal government, sworn to uphold, maintain and defend the Constitution, including the 18th Amendment, against the persistent assaults and open

defiance of a selfish minority, **should make a clear statement of the economic and social values of the 18th Amendment,** followed by a clear-cut appeal for observance of that law by patriotic citizens, this appeal to be accompanied by the **unmistakable declaration of the President's purpose to use all available governmental agencies** to maintain the Constitution inviolate against covert nullifiers or open law-breakers.

Furthermore, at this time of organized attack upon the Constitution, the President should **require the sympathetic, effective support of every department** of the federal government in support of the prohibition law, should **appoint no man to office who is known to be hostile to its enforcement,** and should **remove officers in any department who violate or criticise adversely any part of the Constitution.**

It is fundamental to effective observance and enforcement that the people realize that their chief executive will positively exert all the powers conferred upon him by the Constitution to put an end to open organized lawlessness at whatever cost of men or money. To admit inability to enforce the legally expressed will of a majority of the people on any matter, means the break-down of regularly constituted authority and humiliating, disastrous surrender to covetous law-breakers.

Furthermore, **the President should appeal to all the states for full recognition of their concurrent obligation to aid in prohibition enforcement,** which was assumed by them when they ratified the 18th Amendment, emphasizing also the disastrous results of failure by any state to give full, hearty co-operation.

Wholesale Governmental Education

2nd. In addition to the President's appeal for law-observance, **an adequate appropriation should be made** to enable the Department of Prohibition to carry on an educative program on the evils of intemperance and the disintegrating social effects of lawlessness.

Just as the Postoffice Department issues public appeals to

Georgetown College Library

shop and mail early at Christmas, as the Navy and Army advertise for recruits, as the Weather Bureau and Department of Agriculture issue notices, reports and warnings, **so the Department of Prohibition should prepare and post exhortations and warnings** compelling attention, especially of the young, on especially prepared government billboards, in public buildings, on public highways.

The attitude of the government toward the selfish, traitorous, criminal attitude of the buyer and seller of intoxicants, the evils of drunkenness and similar ideas can be made tremendously impressive.

3rd. **The educative process should be carried on in our schools and colleges,** teaching the physical, intellectual and moral effect upon the individual, and the economic, social and political effects upon the nation of the use of intoxicants.

Well-balanced, properly authenticated arguments in favor of prohibition should be published in the daily, weekly and monthly secular press.

The evils of intemperance and the disintegrating, demoralizing effect of lawlessness should be taught in Sunday school, in pulpit, and on public platform.

Investigating Commission

4th. **A commission should be appointed** of competent, impartial men, not apostles of defeatism, but friends of the 18th Amendment, **to investigate, under supervision of the President, all the factors of the present situation** with definite instructions not to dynamite the law, but to recommend the best possible methods to secure its observance and enforcement.

Co-ordinate Federal Services

5th. There should be such **co-ordination of the activities of the Justice and Treasury Departments** that the trained forces of Coast Guard, Customs Service and Internal Revenue Bureau could all be used for liquor law enforcement, **adding thereto a specially trained detective force of the Department of Justice, all working together on prohibition**

enforcement through the Department of Prohibition, **the Commissioner of which should be appointed directly by the President and responsible directly to him.** Extraordinary conditions demand extraordinary measures.

More Federal Courts

6th. **Minor federal courts should be created** sufficient in number to secure prompt trial of offences, not only against the federal prohibition law, but also against the customs laws, immigration laws, Harrison Narcotic Drug Act, Mann White Slave Act, and other similar inter-state commerce legislation. **Speedy trial and punishment are absolutely essential** to effective law enforcement.

"Political Hands Off" Enforcers

7th. Experience has demonstrated that **senators and congressmen should not be allowed to dictate the appointment of district attorneys, marshals or prohibition officials.** The bane of prohibition enforcement has been the control of such appointments by politicians, many hostile to the prohibition law. No man should be appointed to a position in the prohibition department who is not in hearty sympathy with the effective enforcement of the prohibition law.

Salaries of all prohibition officers should be adequate to secure men of character and sufficiently large to compensate for the responsibility and dangers connected with such work.

Adequate Appropriations

8th. **Congress should appropriate whatever amount is necessary** to secure a sufficient force of suitable men to properly enforce the law, even should it require $100,000,000. If hundreds of millions are spent for army and navy to protect from external foes, no sum is too great to protect from nullifiers and traitors at home.

9th. **Penalties for violation of the prohibition law should be increased. The minimum penalty should be fixed by statute** and should be sufficiently severe to deter would-be violators of the law. **Small fines and light sentences simply incite to repeated violations.**

Aliens who violate the prohibition law should be deported on the first offense. An examination of court records will show what a large percentage of violators are aliens.

10th. **Manufacture of beer of high alcoholic content should be prohibited,** even though such prohibition should result in higher cost of near-beer or in abolition of its manufacture and sale altogether. Persistent lawlessness of breweries justifies stringent measures.

Sufficient force should be available to **control the manufacture of permitted industrial alcohol so as to prevent its diversion into "bootleg" channels.**

Treat Buyer and Seller Alike

11th. As the purpose of the 18th Amendment is to abolish the beverage liquor traffic and as the purchaser of intoxicants conspires with the seller to violate the Constitution and as in intent and spirit there is no difference between the two, **legal distinction between purchaser and seller should be obliterated;** both should be branded alike as criminals, and both should suffer like penalties. It is argued, if the purchase is made a crime, it will be difficult to secure evidence against the seller. But as most convictions are secured by the testimony of officers, rather than of purchasers, better observance and enforcement would result if both purchaser and seller were made liable to similar prosecution and punishment.

Let Non-enforcing States Do Own Policing

12th. **Whenever any state government refuses to co-operate** with the federal government for effective prohibition enforcement, **the federal government should concentrate its efforts to prevent illicit diversion of industrial alcohol, manufacture and distribution of high-powered beer, operation of distilleries for bootleg purposes,** and **smuggling into or out of such state.**

While not ignoring or refusing to arrest or prosecute minor offenders, **the federal government should compel the people of a state with a nullifying set of officers to face their own responsibility for their lawless conditions.**

"DESTROY THE UNHOLY ALLIANCE" and TIGHTEN VOLSTEAD ACT

Charles L. Cass
Formerly Prohibition Agent, Southern California

FOR nine years the federal government has been charged with the duty of making the 18th Amendment a reality by enforcing the National Prohibition Act. **That enforcement has not brought the hoped-for destruction of the liquor traffic.** Intoxicating beverages still devastate American manhood, womanhood and youth. National prohibition has not produced national temperance, and everywhere Americans are asking how greater efficiency can be secured in the enforcement of the 18th Amendment.

Seven years experience as a federal prohibition agent, in charge of a large district with diversified population, populous cities, a large frontage on the Mexican border and on the sea, gave me the strong conviction that the 18th Amendment has **failed to accomplish its object because of the lack of aggressive leadership, the inadequacy of the National Prohibition Act and widespread political corruption.**

Herbert Hoover

That experience has convinced them that the predominant force necessary for the realization of the 18th Amendment is aggressive leadership in its behalf by **the one charged with the supreme responsibility of enforcing the Republic's laws, the President.** Thus far that has not occurred. Today millions hope and expect that Herbert Hoover will give the desired leadership. If he does not, then it is for that majority of Americans, north and south, who hope for, long for and pray for the destruction of the liquor traffic, to secure such leadership by elevating to the presidency four

years hence one who will measure up to the demands. The Republic's past proclaims that in the hour of national need a political genius has always come forward. A great leader would arouse public opinion in behalf of the 18th Amendment by his eloquence, logic and appeal, secure the necessary co-operation of Congress by masterful control of men, and find the pathway to the abolition of the outlawed liquor traffic by his wisdom and genius. Until there is such leadership, others can assist only by offering suggestions.

Experience has convinced me that the following changes in federal jurisdiction, legislation and jurisprudence would make for greater efficiency in the enforcement of the 18th Amendment.

The Bureau of Prohibition should be **transferred from the Treasury Department to the Department of Justice,** which today is charged with the **duty of prosecuting violations** of the National Prohibition Act in federal courts, but which has **no control over securing the evidence upon which those cases are based.** This transfer would centralize authority and responsibility. It would be advantageous because of the fact that **the conservative type so essential to the efficient management of the financial affairs of the nation seldom possesses the aggressiveness necessary to successful enforcement of law.** It would be logical because **the Bureau of Prohibition is not a revenue-collecting agency,** as are most of the units of the Treasury Department, and, as was the Bureau of Internal Revenue when it was charged with the enforcement of national liquor legislation. If congressional action cannot be secured authorizing this transfer, the Secretary of the Treasury should be one whose past record demonstrates that he is in sympathy with, and has the keen desire to enforce national prohibition.

Tighten the Law

The National Prohibition Act should be re-drafted by Congress to provide for the following:

1. The illegal manufacture and sale of intoxicating liquor and its transportation in large quantities should be

made a felony punishable by a mandatory minimum jail sentence of at least thirty days instead of being only a misdemeanor, as now. This change would bring within the scope of deportation laws, which provide only for deportation of felons, those aliens who constitute a large majority of the violators of the National Prohibition Act.

2. The penalty for all other violations should provide a mandatory minimum sentence instead of only a maximum as at present,—a minimum which would be of sufficient severity to act as a strong deterrent to wide-spread violations, which would prevent the liquor traffic from maintaining its existence by the payment of small fines, much less in amount than what it formerly paid in license fees.

3. Section 25 authorizes the issuing of search warrants to search private dwellings only upon an affidavit of a sale there. This has resulted in the use of private dwellings as wineries, breweries, distilleries and liquor warehouses. Search warrants should also be issued upon an affidavit showing reasonable cause for belief that the premises are being used for the manufacture of distilled spirits. The National Prohibition Act alone places limitations upon the issuance of federal search warrants in excess of those provided by the federal Constitution—reasonable grounds for belief that the law is being violated. No other federal officers are thus limited in their activities.

4. Section 29, authorizing the manufacture of non-intoxicating fruit juices for home use, should be rewritten to remove its vagueness, which some judges have taken advantage of in making decisions setting forth that it was necessary for the government to prove, not that the fermented fruit juice was over ½ of 1% alcohol by volume, but that it was actually intoxicating. This has resulted in the production each year of enormous quantities of wine for beverage purposes, a considerable part of which is illegally sold by aliens and others.

Pre-Volstead Cellars

5. Section 33, which provides that intoxicating liquor

secured prior to February 1st, 1920 is legally possessed and need not be declared if the same is to be used only by the possessor in his private home for himself, his family or his guests, should be revoked, so that the possession of said liquor one year after the date of said revocation is made illegal. This provision has made it possible for **those who own barrels and bottles bearing pre-Volstead internal revenue stamps, to refill such containers indefinitely with a new supply of liquor.** Its revocation would remove one of the chief causes of antagonism to the National Prohibition Act, **by doing away with the unequal privilege granted to those financially able to purchase, prior to February 1, 1920, intoxicating liquor for future use. The Emancipation Proclamation and the national narcotics act did not give to those possessed of financial resources the privilege of purchasing slaves or narcotics for future use.**

6. The National Prohibition Act should **make the re-distillation of denatured alcohol, as well as "rectifying"** (altering the alcoholic content of any liquor) **by other than permittees, a felony.** This would act as a deterrent to those who illegally make gin and whiskey from alcohol, and to those who re-distil industrial alcohol, the source of most "poison liquor." **There is now on the statute books** an old internal revenue act **making illegal rectifying a felony,** but federal attorneys hesitate to use it to assist in enforcing the National Prohibition Act.

7. The Act should also **make it unlawful to offer for sale,** except to legalized distilleries and wineries, **bottles in which are blown the words "whiskey," "gin" or "wine," or the trade name of any brand of liquor, as well as labels, wrappers, metal caps, or "caution" labels,** upon which such names appear.

"Medicinal" Liquor

8. And finally, the Act should be amended to **make the use of medicinal liquor for beverage purposes a misdemeanor,** as well as the **practice of securing it by giving fictitious names and addresses, or obtaining it from more than one physician within any ten-day period.**

More efficient enforcement will be secured when federal jurisprudence is changed by Congress so that **United States commissioners shall have the power to conduct in their courts trials of those guilty of misdemeanors under federal laws,** and to sentence those found guilty; and further, to act in the same capacity in cases involving felonies, whenever so ordered by the Attorney-General of the United States. This would relieve the congestion which today clogs the calendars of federal courts. **Delayed prosecution frees many a violator because witnesses are often not available, or if available, their recollection of the facts has become vague.** In state courts, justices of the peace are called upon to preside in higher courts when the condition of the calendar makes that advisable.

Section 2 of the Act Supplemental to the National Prohibition Act, pertaining to the issuance of permits to manufacture and sell medicinal alcoholic preparations—wine tonics and alcoholic bitters, **authorizes the Commissioner of Prohibition to order a change in formula whenever any of these preparations become in common use for beverage purposes.** Today their use has become so prevalent that some cities and states have had to pass legislation prohibiting their sale within their borders. Notwithstanding that, the Bureau of Prohibition continues to issue permits for the manufacture of wine tonics and alcoholic bitters in ever-increasing amounts, the formulas of most of which are similar to those now on the market and commonly used for beverage purposes. **This authority** to order a changed formula, granted to the Commissioner alone, **should be mandatory** instead of optional.

Drug Store Saloons

Regulation 2 of the Bureau of Prohibition, relating to permits, should provide that **permits revoked for illegal acts should not be reissued until after the expiration of five years instead of optional after one year,** as now. This would be a strong deterrent to the proprietors of many **drug stores which are only drug-camouflaged saloons,** and to those

physicians who sell their signed prescription books to druggists, **or prescribe liquor for beverage purposes,** often to youths whom they know to be in perfect health. It would also deter those holding permits to use alcohol for industrial purposes from selling it to bootleggers.

Permits to druggists should restrict the use of alcohol to the filling of pharmaceutical prescriptions, instead of permitting its use in making tinctures, which can really be purchased from the wholesaler cheaper than they can be compounded by the retail druggist. The records of druggists who sell alcohol, either pure or as gin, always purport to show that it has been used for tinctures, and the government is powerless to prove otherwise.

Prohibition enforcement will become more effective when **church societies, temperance organizations and women's clubs** which for years waged aggressive warfare against the liquor traffic—a conflict finally resulting in the ratification of the 18th Amendment—**realize that their task is not ended.** The failure of the federal government to make a determined effort to enforce that legislation necessitates that they **again re-form their ranks,** this time not to secure the passage of laws, but to secure their enforcement.

We Can Win

Finally, there will be greater efficiency when Americans **destroy the unholy alliance between corrupt politicians and criminals** by placing in public service more men true to public trust. **That alliance derives its largest revenue from protecting and maintaining in existence the outlawed liquor traffic.**

For decades this nation has led the vanguard of the march of nations in the march of human progress. Let it not be said of this generation of Americans that they had not the courage, honesty, ability or power to efficiently enforce the 18th Amendment, thus destroying the outlawed liquor traffic, the greatest foe within our borders. **Other generations of Americans have accomplished more difficult tasks than that but none possessing greater possibilities for human welfare.**

STOP VOLSTEAD LOOPHOLES*

Wm. Sheafe Chase, D.D.
Superintendent International Reform Federation
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*This statement, expanded, was presented to the 70th Congress with the endorsement of the National Temperance Society, National Civic League, National Division of the Sons of Temperance and the Social Service Commission of the Northern Baptist Convention.

THE Volstead Act is full of loopholes. **The wets know the loopholes. The drys generally do not know them.** They have accepted the wet propaganda that the Volstead Act is very drastic and despotic and that the experience of the dry states in enforcing prohibition was incorporated into the National Prohibition Act.

On the contrary, all penalties for violations of the Volstead Act, **instead of being made stronger and more severe to prevent evasions,** which have been stimulated by temptations and inducements a thousand times greater than before, **were radically reduced and the restrictions loosened;** competent evidence of violations was limited; and **evidence that was competent and admissible under the old federal liquor law is declared incompetent and inadmissible** under the Volstead Act. This has resulted in encouraging violations of the Act and endangering the 18th Amendment itself.

Under the old federal law a person who violated the conditions of his permit and was convicted or compromised by paying certain penalties **could not again be given a permit.** Instead of this the Volstead law provides for first, second and subsequent offenses.

Volstead and State Laws Compared

Not one of the following powers and penalties, that are back of state prohibition laws in 14 to 39 states, are given in the Volstead Act:

39 states provide a **minimum penalty for first conviction.**

29 permitted **search of dwellings without proof of sale** prior to the Volstead Act, as did Alaska, District of Columbia, the federal search warrant law of 1927 and **federal revenue search laws for 50 years.**

18 allow **search warrants on affidavit of belief** that the law is being violated **without requiring affidavit of violation.**

29 make **injunction mandatory** upon the court on proof of existence of nuisance.

28 make **abatement of the proved nuisance necessary.**

14 allow **private citizens to be plaintiffs** in liquor search warrants.

20 allow **citizens to start injunction suits against nuisances.**

17 **make abatement follow conviction** of a criminal nuisance.

20 **prohibit the sale of malt liquors, even "non-alcoholic."**

29 enjoin the keeper of a nuisance **at any place.**

26 **permanently enjoin the place itself** from being used as a nuisance.

Federal Power Weakened

No fewer than 59 laws, which before federal prohibition had been **found necessary to protect distillers against moonshiners,** were repealed by the Volstead Act when federal prohibition set out to protect the general public against moonshiners and bootleggers.

The repealers were by number only, **without explanation to the public or even to the congress** that passed them. Yet the repealed sections were **among the most effective as revenue regulations, and would have been equally effective as prohibition regulations.** They should be re-enacted.

Dangerous and Unconstitutional Power Given

The Treasury Department's power to make regulations amounts now to **power to supersede statute law and judicial decisions.**

A Prohibition Commissioner may change his predecessor's regulations with the Secretary of the Treasury's approval, which **means no stability of law and no public knowledge of such laws.**

Homes Menaced

There were millions of gallons of liquors of various kinds which should have been destroyed by government order on the taking effect of the Amendment. What became of it?

Congress compromised these liquors into safety by providing that **if liquors be removed from the saloons to the homes of the people, they would not be molested** and they need make no report to the government, as to kinds or quantities on hand.

It provided further that the owner could use any quantity desired for beverage purposes, and **serve any quantity to members of his family and his "bona fide guests" for beverage uses.** "Bona fide guest" is not defined, and no limit as to quantities that may be served is provided.

A confirmed drunkard or a neighbor's child may be a "bona fide guest." Neither is there any limitation as to the length of time required for the guest to be entertained before he becomes "bona fide."

Liquors may be manufactured in the dwelling or obtained in any other way, and the same rule prevails as to disposing of them.

The only limitation to the home saloon is that liquors are not sold within its walls, in the presence of federal officers, unless they are trespassers or bribed. That limitation is easily evaded by any ordinary bootlegger or moonshiner.

Here we have the compromise that **drove the saloon from the public places where children were protected** by being barred from their doors, **into the private homes where the children must live.**

The children could not go to the saloon but **the Volstead Act takes the saloon to the children.**

Here in the home, the adult members of the family and "bona fide guests" sit with the children at the family table, sip these unconstitutionally protected liquors, damn the Constitution, curse the law and vilify enforcement officers. Children here are led into lives of crime.

26 Amendments Needed

At least 26 amendments to the Volstead Act are needed to prevent evasion, remedy weakness and stop nullification by the many devices invented and developed by enemies of the 18th Amendment since the Volstead Act went into effect.

1. Fix **minimum** as well as maximum penalties.

2. **Include a prison sentence in all penalties.** The maximum penalty protects the criminal from the excessive zeal of the judge who might inflict too severe a penalty. The minimum penalty would **protect the public from too great laxity** on the part of the judge who might act perhaps at the request of corrupt politics, to protect a criminal from **any** proper penalty.

The minimum penalty does not take away the discretion of the judges any more than does the maximum penalty.

Deport Convicted Aliens

One advantage of a maximum penalty, high enough to make the crime a felony, is that it will **lead to the deportation of foreigners who receive that penalty, without any further legislation.** The existing federal immigration laws provide for the deportation of only such foreigners as have been convicted of any crime involving moral turpitude.

3. Permit search warrants for private dwellings **without proof of sale** if there is manufacturing or possession of illegal liquor.

4. Permit search warrants **on affidavit** by an officer or **information of a credible citizen** if the court or magistrate thinks the evidence sufficient.

5. Make **injunction and abatement mandatory** when evidence proves the existence of the nuisance.

6. Make criminal conviction or plea of guilty of violating the prohibition laws **prima facie evidence of the existence of a nuisance.**

Permanent Injunctions

7. Make the **injunction perpetual against the individual at any place** in the United States.

8. Make the **injunction perpetual against the building,** to prevent even the old offender under a new name continuing the nuisance.

9. Close the building **for a year.**

10. **Confiscate all movable property.**

11. Give a **prison sentence for second or subsequent conviction for violating an injunction order.**

12. Authorize **citizens and their organizations to institute injunction proceedings** and file proper information for search warrants.

13. Empower enforcement officers to **arrest persons violating the prohibition law in their presence.**

14. Empower them also to **seize the implements and materials with which crime is committed.** Now an officer must leave and get a warrant before stopping the crime and catching the person who is perpetrating the crime before his eyes.

15. Make **enforcement officers removable** on supported complaint of five or more citizens, the Commission of Prohibition or the Attorney-General, **for refusal or failure to do their duty.**

Restore Pre-Volstead Penalties

16. **Restore the regulations, penalties and forfeiture respecting industrial alcohol that obtained prior to prohibition.**

17. Make **evidence admissible in a trial if it establishes crime** even if the officer trespassed in his method of getting it. **Commission of a crime by an officer should not justify the discharge of a defendant who committed some other crime.**

18. **Add United States marshals and their deputies as law enforcers.**

19. Have search warrants authorize search by **night as well as day.**

20. Require search warrants to **direct searchers to look for and seize physical evidences of law breaking,** such as bills of accounts, cancelled checks, bills of lading, etc. Documentary evidence of this kind is of far more importance than liquors as a rule.

21. Require the officer with a search warrant to **arrest any person in possession of the illegal articles seized and file an information** against such person.

State Appeals On Permittees

22. **Allow states to appeal from the Commissioner of Prohibition when he grants permits to manufacturers whom the state considers untrustworthy,** and during the appeal suspend the permit.

23. **Take permits** away from permittees who violate **and permanently disqualify those permittees.**

Courts of Enquiry

24. Authorize United States commissioners and state officials who may hold preliminary hearings in criminal cases to **hold courts of enquiry which can compel purchasers to testify against sellers.**

25. **Prohibit malt liquors,** which serve only as a subterfuge for stronger liquors and keep before the beer drinking public a constant desire for alcoholic beer. Near beer is made by first producing real beer and then abstracting the alcohol beyond ½%. **The abstracted alcohol becomes too often the alcohol supply for bootleggers.**

26. Throughout the Prohibition Act change the phrase "liquors fit for use as a beverage" to read "liquors which may be used as beverages." **A national law to enforce prohibition against alcoholic beverages should not speak of alcoholic liquors as if any of them were fit for beverage purposes.**

USE STATE COURTS AND PADLOCK

Guy W. Cheney
District Attorney, Steuben County
Corning, New York

NATIONAL prohibition can be enforced to a reasonable degree by a thorough and efficient use of the means now provided by the Volstead law and by the creation by statute of certain additional machinery.

From an experience of seven years as the district attorney of a rural county, I have reached the following very definite conclusions:

1. **The methods provided for criminal prosecution and conviction under the law as it stands today are hopelessly inadequate.**
2. The creation of **minor criminal courts of sufficient number** to take care of the vast number of violations **is the only way that violations of the Volstead law can be punished criminally in sufficient numbers to create a respect for the law on the part of the violator.**
3. **The use of injunctions has been the most effective means wherever they have been employed, commonly called padlocks.**
4. **The use of the state courts by federal enforcement officers can multiply a hundred times the effectiveness of the padlock.**

Whether or not the state should co-operate to the fullest extent by the passage of a state enforcement act is academic. The fact remains that the state of New York, the largest state in the Union, containing about one-tenth of the total population of the United States, has no such act, and by the nature of its population probably will not have such an act for several years. The state of Massachusetts in the recent election voted overwhelmingly in

favor of no state enforcement act. By the passage of the 18th Amendment the people of the United States as a whole decided in favor of national prohibition and its enforcement. It must, therefore, be considered a national problem and **the nation has the right and owes the duty to itself to accept the responsibility in the state of New York and wherever a state has refused to accept it.**

1. Present Criminal Methods Inadequate

Violations of the national prohibition laws occur in large numbers in practically every community in the so-called "wet" states. There can be no denial of the statement that for every person arrested for intoxication there has been at least one, and probably several, violations of the Volstead Act. A man does not become intoxicated from one drink. He may, of course, become intoxicated from the contents of a pint of liquor sold to him. Generally speaking, however, **each intoxication case is the result of several distinct sales to the individual.**

The state of New York can be used as an example, particularly because of its size, the complexity of its population and the fact that it has no state enforcement act, and the problem of enforcement is at least as serious in the state of New York as in any state in the Union. The state of New York has four separate federal districts, to wit: western, northern, southern and eastern districts. Using the western district of New York as an example we find that it has two federal judges. **These two judges alone** have the power to try and sentence for violation of the Volstead law in a territory containing about 2,000,000 population and including a number of large counties. In that same territory there exist several hundred magistrates who can sentence the man who becomes **intoxicated;** but there are **only two men who can punish by the criminal statutes** the several hundred daily violations of the Volstead Act in the same territory.

The judges are forced, therefore, to encourage pleas of guilty to the indictments found by federal grand juries. If

at any term a federal judge becomes severe, begins to announce a jail sentence or really heavy fines, the defendants immediately enter pleas of not guilty. The law gives these defendants the right of a trial by jury.

Even the simplest case will occupy a day to try and **a federal judge is confronted with the certainty that unless he is extremely lenient in his sentences he will have literally hundreds of cases before him for trial.**

He is faced with the knowledge that in a month's time he can very easily have more criminal cases waiting trial than he can dispose of in several years.

The defendants usually employ able attorneys who understand this practical question. It does no good to indict a man unless you can try him and sentence him. He can immediately go back and continue his violation of the law.

The practical result (which all federal judges, United States attorneys and other persons familiar with the situation know to be the fact) **is that in order to make some sort of progress with the criminal cases facing them** judges are absolutely forced to accept innumerable pleas with the tacit understanding that the fines will be nominal. In many cases **violators who have been indicted for transportation, sale and possession are permitted to plead to possession only.** Others who have been indicted for sale and possession are permitted to plead to **possession only.**

The cause of this unfortunate condition is the **lack of a sufficient number of courts** to dispose of these cases. Concededly, United States district courts were not intended for the trial and punishment of what are admittedly misdemeanors. We know that all states have provided inferior courts, commonly called courts of special sessions, for the trial of similar types of cases. The state courts of major jurisdiction are not burdened with the trial of a multitude of misdemeanors. Neither should courts of the dignity of our United States district courts be so burdened.

2. Creation of Minor Criminal Courts Necessary

A subdivision of Article One, Section Eight of the Constitution gives Congress power to establish from time to time

courts of inferior jurisdiction. The establishment of such courts, at least one in each county and preferably one in each assembly district of the state of New York, is absolutely essential to efficient prosecution for violation of the Volstead law.

The immediate response to such a suggestion is that the cost would be stupendous. That is not true. **Such courts could be based upon a system of costs to be borne by the defendants when found guilty and the penalties recovered would unquestionably more than pay for the operation of the courts.**

As courts of special sessions they would only be in operation for each particular case and would not have to carry a heavy salary list, involving court attendants and witnesses brought from great distances and sometimes kept several days at heavy expense.

The trial of a case involving a liquor violation in a court of that character could be held at a small fraction of the cost of the trial for the same misdemeanor in the United States district court.

Prohibition has been called the greatest social experiment of modern times. Both wets and drys concede that it should be given a fair trial. **It never has been given such a trial** and it cannot be given such a trial until practical means for its enforcement criminally are found.

Congress could very readily pass legislation authorizing the creation of such courts; make the appointments as of all federal judges during the pleasure of the President; and the President could see to it that the appointees are of a character in sympathy with the enforcement of the law.

3. Injunctions Have Been Effective

There is no question that **the use of injunctions has been the most effective way of enforcing the law.** The financial loss entailed not only to the offender but to the landlord is severe and **neither offenders nor landlords would take chances if a series of violations were certain** to be followed by the use of the padlock.

We again are faced with the same difficulty as in the

criminal prosecution. Federal enforcement officials have relied entirely upon the federal courts for the issuance of injunctions and the officials are confronted with the difficulty of having a limited number of judges to issue preliminary orders, and the far greater difficulty of having the necessary federal courts to try those cases when contested.

An equity proceeding can be tried by a judge in much less time than a criminal case before the same court with a jury; but the fact remains that federal judges have human limitations as to time and ability to work at trial work steadily for months.

4. State Courts Should Be Used

The federal law now gives the state courts the right, upon the application of federal, state or county criminal officers, to issue a temporary and later a permanent injunction. See Section 22 of the National Prohibition Law:

> "An action to enjoin any nuisance defined in this title may be brought in the name of the United States by the Attorney-General of the United States, or by any United States attorney or any prosecuting attorney of any state or any subdivision thereof, or by the Commissioner or his deputies or assistants. Such action shall be brought and tried as an action in equity and may be brought **in any court having jurisdiction to hear and determine equity cases. . . .**"

The constitutionality of this section has been passed on by the courts of the state of New York in the case of United States v. Sumner, 216 App. Div., *762*, affirming 125 Misc. 658.

In the state of New York (again used as an example) we have nine judicial districts with from eight to twelve judges in each district. Each of them has the power to issue temporary injunctions and try contested cases excepting those assigned to the appellate division. It would, therefore, **add to the 13 United States district court judges in the state of New York approximately 85 supreme court judges within the state of New York.**

The use of the state courts in addition to federal courts in injunction cases would, of course, require additional help in the office of the United States attorneys. The practice would be similar in each case and any ordinarily competent attorney could handle them without difficulty. **The law could provide for the appointment of assistant federal attorneys, preferably one in each assembly district.** Such an official would know local conditions and could utilize not only federal enforcement officers but also local police and sheriff's officers for the securing of evidence.

It would be a comparatively easy matter for such an assistant federal attorney to institute from five to ten padlock proceedings per month in even the smaller assembly districts.

Anyone familiar with the attitude of the bootlegger toward prohibition enforcement knows that **he fears padlock proceedings much more than he fears the usual raids and the subsequent indictment.**

There can be no question that the thorough use of the padlock in every assembly district in the state of New York (again merely used as an illustration) would **create an immediate halt in the now almost open violations throughout the length and breadth of the state.**

When it became evident that the plan was to continue and not be merely a temporary gesture **both landlords and tenants would realize the futility of anything but the most secret and occasional violation.** The danger would be all out of proportion to the possible profit and **the incentive to remain in such a precarious business would cease.** Ninety percent of the so-called soft drink places would be forced out of business.

Conclusion

If Congress honestly wishes to enforce prohibition, it must pass the necessary legislation to create the machinery suggested in this plan and appropriate sufficient funds to permit the machinery to work. The only genuine objection to the proposed plan is that **it may prove expensive for a time. If prohibition is worth having, it is worth paying for.**

GOVERNMENT AND PUBLIC CO-OPERATION

Ernest H. Cherrington, General Secretary
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BEFORE considering a plan the country's lawmakers and enforcers must first analyze the foundations of that plan. In making the 18th Amendment effective those foundations include present conditions, existing facts and various fundamentals here summarized.

Recognizing conditions. The purpose of the 18th Amendment is directly to prohibit the traffic in, and indirectly to prohibit the use of, beverage alcohol. This plan proposed for making that Amendment effective, involves recognizing **that constitutions do not enforce themselves; that laws live by action of officials; and that public opinion is the dynamic force back of government.**

Facing the facts. This plan requires facing the fact that while **American public sentiment** has been shown to be **emphatically favorable to the 18th Amendment as a standard of conduct,** nevertheless there is as yet **no such degree of sanction for enforcement and observance;** and that there is widespread and flagrant disregard of that Amendment and the laws pursuant thereto.

Fundamentals. This plan, moreover, is constituted upon the assumption that **free government can effectuate itself;** that the perpetuation of democratic institutions requires **observance of laws by the classes as well as by the masses;** that the rights of the people of the nation as a whole are paramount to those of a single individual, community or state; that **time is an essential factor** in making effective prohibitions against great social evils, as evidenced by such cases as those of piracy, the slave trade, duelling, the pub-

lic lottery and narcotic drugs; that **any effective plan must evolve from experience,** and that its final test must be, not whether it is expedient, but whether it is right.

This plan, therefore, naturally divides itself into two general subdivisions, namely, (1)—the functioning of the government; and (2)—the functioning of the people.

I

The Functioning of the Government

The government's part of the plan for making the prohibition Amendment effective **requires not only concurrent action of the states and Congress** under the specific concurrent provision of the Amendment, but **also co-ordinate action of the judicial, legislative and executive** departments of government and the sub-departments thereof.

While there is no limitation on the federal government to deal with all classes of violations, nevertheless experience and practical considerations indicate the wisdom of co-ordinate action whereby **the local and state governments will deal with local violations,** thus leaving the federal government to deal with sources of supply, interstate traffic, diversion, large sales operations, smuggling, and conspiracy cases.

The Judiciary

One of the most vital essentials for the success of this plan is that all courts through which enforcement registers shall be kept independent and free of undue influence; shall assess penalties commensurate with the crime, within the limitations of the law; shall insure **speedy and sure punishment** for violations, and shall see that juries are chosen by such methods as will assist justice.

Nevertheless, the courts should be held strictly to account. There is no department of government where malfeasance or nonfeasance should be dealt with more promptly and definitely, for what happens in the courts will not only affect the 18th Amendment but will go far towards demonstrating the degree of efficacy and integrity of the American court system.

The Executive

Under the plan proposed, adequate enforcement of the law involves co-ordinate action upon the part of federal, state and local executive officials, who stand immediately behind the courts.

There is divided responsibility in the states, where the maximum of police power is held. Not only the governor, but the attorney general, the sheriffs, the mayors, and the prosecutors are elected by the people. The only federal enforcement official elected by the people is the President, who alone is specifically charged under the Constitution with the faithful execution of the laws, together with the preservation, protection and defense of the Constitution.

Power of the President

By virtue of his appointive power, his relation to the judicial and executive departments of the government, his influence with Congress, and his connections with foreign treaty-making, the chief executive of the nation becomes **the most important single factor** in the machinery of government for making the 18th Amendment effective.

Presidential Responsibility

The fact that the 18th Amendment is more seriously challenged than other parts of the Constitution **lays upon the President a greater responsibility with regard to it.** The success of this plan, therefore, depends very largely upon him.

The Legislative Department

Under this plan the legislative requirements are not for **a new system of enforcement, but rather for ample appropriations, necessary adjustments and clarifying and remedial provisions** to carry out the intent of the present laws.

Specific Changes Necessary

Experience has demonstrated the need for the following legislative action:

1. Increase the annual appropriation for the federal prohibition unit to not less than $25,000,000.

2. Transfer the Bureau of Prohibition to the Department of Justice.

3. **Use a liaison officer to co-ordinate the sub-departments of all the general departments** of the government in such a way as the Coast Guard and Customs have been correlated with the prohibition unit under the Assistant Secretary of the Treasury.

4. Concentrate all existing warehouse liquor stocks.

5. Make the manufacture of all intoxicating liquors for legitimate use a **definite and direct responsibility of the government.**

6. **Increase penalties** for the violation of the prohibition laws **to equal the penalties provided for similar classes of offenses under the postal laws** and codes governing other offenses of the same degree.

7. Make the **purchaser** of intoxicating beverages liable under specific penalties as **particeps criminis.**

8. Provide for **deportation of aliens** who persistently violate the prohibition laws.

9. Provide a **sufficient number of judges and ample federal court machinery** to insure prompt care of all cases.

10. Provide that the government shall **gather data and publish official statements** on the various vital phases of beverage alcohol use, law violations, accidents, poison liquors, and various other related social and economic data such as are now collated and published on other important subjects.

11. Enlarge, extend, bring down to date and make imperative the observance of **state laws providing for instruction on the alcohol question in the public schools.**

II

The Functioning of the People

Under our form of government there is a power above the three departments outlined in the Constitution. That power is public opinion.

Public opinion is the final authority whose will legislatures translate into statutes, whose mandates public officials execute, whose judgment courts interpret and decree. Therefore this plan places the greatest emphasis on the obligation of the people.

Organized Effort

Public opinion under this plan must function through such organized forces as the churches, social betterment agencies, welfare associations, temperance and reform societies, civic leagues and other citizenship organizations.

Such organized forces, representing the people, must constantly make their impact upon educational, industrial, commercial, social and political groups.

The results of their efforts must be shown in the work of the public schools, the Sunday schools, labor organizations, business enterprises, social clubs and other agencies. They must make their appeal to, and make proper use of, the press, the pulpit, the public platform, the movie and the radio.

Impacts Upon Government

Such forces may thus exercise a most wholesome and proper influence in the community, the state and the nation, not only in the election of public officials, but in securing proper remedial legislation and assisting law enforcement by the influence thus indirectly brought to bear upon legislative bodies; upon local, state and federal enforcement officials; upon state and federal judiciary departments; and what is more important than all else, upon the people themselves, as to their vital part in the operation of all the departments of government and as to their own obligation of obedience to the laws which they have made. Thus only can morale be created.

Limitations and Obligations

Organized forces representing the public in educational and promotion work in the interest of the 18th Amendment must not assume functions which belong to the govern-

ment, must not attempt to dictate, but must constantly seek to present "the truth, the whole truth, and nothing but the truth" as it relates to the principles involved in the 18th Amendment and to its enforcement and observance.

New Type of Education

Even more vitally important, however, is the obligation upon such forces to **inaugurate a new type of educative effort,** with new data in harmony with the new age, new methods and a new appeal, that will meet the most critical intellectual and ethical tests of this new day. **That means such a campaign of education as has never before been approached in social reform.**

It means an effort to persuade the public to consider in this connection the **new facts and implications of the rapidly-increasing mechanization of industry,** where the electric dynamo has been substituted for human muscle and has thus transformed the human factor in industry into one, the requirements of which are keen eyes, quick wits, steady nerves and clear brains.

It means **emphasizing the steadily-diminishing safety margin in modern transportation,** where the fast express, the automobile and the commercial airship are rapidly making intolerable the contact of beverage alcohol with the nerve centers of the individual, with all the far-reaching social and ethical implications involved therein.

It means placing **major emphasis upon the obligation of leaders in industrial, commercial, social and political realms,** who, by reason of their example, influence and leadership must of necessity carry the largest degree of responsibility.

It means primarily **investigation, research, publicity and other special educative processes,** with the resultant dissemination of the truth, not simply among adult groups, but particularly and more imperatively, **among those in the public schools, the colleges and the universities,** who as citizens and officials of tomorrow will determine the destiny of beverage alcohol and the principle of prohibition.

Such an educational program, with such methods, such limitations, such obligations and such a purpose, is absolutely essential to an adequate realization of that condition which the 18th Amendment was intended to promote.

The Operation of the Plan

This plan, therefore, will operate, first, in the dissemination of the truth in a tremendous nation-wide educational campaign, emphasizing total abstinence for the individual and the elimination of beverage alcohol from social life.

Gradually, by that process and by the action of government which will help to promote that process, there will be created a body of sentiment in villages, counties, cities and states, which will be committed against beverage alcohol and to the vital principle of national prohibition. Slowly but surely that sentiment will be crystallized into public opinion, which in turn will be translated into definite action.

That public opinion, guided by the organized forces of the churches, social welfare agencies, civic organizations and citizenship groups, will increasingly express itself through intelligent discrimination at the polls, in the election of public officials, and **on the sidelines in government, encouraging and upholding the hands of public officials who perform their duty, and condemning the action of those who violate their trust.**

Finally, public officials, certain of that sentiment, **eagerly will act and aggressively will press for the realization of the people's will** to the end that the laws of Congress and the states may be supplemented as need may require; that the courts may function in the matter of prohibition laws as they do in connection with other laws; that local, state and federal officials in the executive departments of the government may set up a new standard of public conduct in the enforcement of the law; and that the people generally may become committed to total abstinence and prohibition.

Thus only can the 18th Amendment to the federal Constitution be made permanently effective.

"NO MORE JOKING"

G. L. Cleaver
Former State Superintendent of Secret Service, Former State Prohibition Commissioner, Inglewood, California

THE 18th Amendment and the laws passed by Congress for its operation **cannot be satisfactorily or impartially enforced on a political basis.** This sumptuary federal law with its concurrent clause for enforcement by state and county authorities has become a **political convenience rich in possibilities for corruption**—because of the aggressive minority opposition.

In answer to a question about the practicability of prohibition, one of our greatest statesmen answered, **"We do not know yet, because enforcement has never been tried."** He states an absolute truth. **Enforcement of national prohibition has been so interfered with by politics that it has never had a fair trial.**

Therefore, that federal policy, method or system of enforcement which will come the **nearest to eliminating the political factor** will be found the most satisfactory. To illustrate: **It would be difficult if not impossible to find a political subdivision in the United States where there are not enough wet votes to wield the balance of power in an election.** For this reason, the candidate for sheriff, district attorney or justice of peace in the county unit, who will make the best promises to satisfy the voters who are opposed to prohibition, is the candidate who is elected to office (in the majority of cases).

Such conditions result in the **election of officials who are thereby placed in a compromising position with the friends of the illicit liquor traffic,** being bound by political obligations to protect such friends when protection is possible. Therefore, it is necessary to **make protection practically impossible by keeping the federal and state enforcement**

units separated—without, however, relieving either one of full responsibility for the apprehension and prosecution of every violator of the prohibition laws.

Under the present system, **the politically influential citizen, the merchant prince, the wealthy society leader, as well as the bootlegging kings, are largely immune from prosecution.** This is brought about by the political co-operation of the enforcement units.

Drinking Politicians Won't Enforce

A still greater source of corruption results from the federal appointment of enforcement commissioners and officers who are not in sympathy with the 18th Amendment or with the laws carrying it into effect. A large percentage of collectors of customs, United States marshals and their deputies and state prohibition directors have been selected from a class of drinking politicians, whose total disregard for the 18th Amendment since its passage should automatically disqualify them for such position.

The political co-operation of these two forces, complicated as above outlined, one coming up from the electorate in the local subdivision of the state, and the other coming down from the government department, creates an impossible situation for the proper enforcement of prohibition. This is what has brought about the general discredit of the law and disrespect for the constitutional amendment.

The plan herein outlined is based on the principle involved in the administration of the national banking and postal laws; viz., **secret service in all investigations and arrests for violating prohibition laws**; such investigation to be conducted by federal agents who have no local interest or obligations—political or otherwise. No notice whatever of their approach or activities should be given. This would minimize corruption, protection, inefficiency. **Wholesale arrests made by federal officers in any community will serve to humiliate and discredit compromising, dishonest and indifferent local enforcement officers, thus awakening the better element to a true realization of the existing conditions.**

8 Steps Suggested

Step 1. Transfer prohibition enforcement to the Department of Justice, by whatever legislation is necessary, and **change the present policy from political entanglement to non-political secret service,** to be administered on the same basis as the national banking and postal laws are now administered.

The Department of Justice is the logical headquarters for the enforcement of the 18th Amendment, for its chief function has always been the prosecution of violators of the law.

No change in the law is necessary to develop this plan along secret service lines. No notice should be given by secret service agents of an approaching visit to federal prohibition officers or inspectors.

It is on this principle that the examination of national banks has been so successfully conducted.

Step 2. One Commissioner at Washington with his associates, assistants, agents, inspectors and clerical force, whose salaries shall be fixed by him as at present. Under this system **regional administrators may be unnecessary.**

If the Commissioner in his selection of assistants, regional and state directors, employs only those who are obedient to and in sympathy with the laws they are selected to enforce, then there need be no further change in the present administration.

The inconsistency of placing a heavy consumer of beverage liquor in the position of manager of such a department, as has been done in the past, is apparent to all students of the prohibition question.

Step 3. One Director for each state with at least ten deputies; said Director to be chosen **from a state other than that in which he officiates.**

The number of deputies will necessarily vary with the population of the state and the enforcement difficulties arising, a larger number being required for border states, coast states, etc., but the methods proposed herein would accomplish better enforcement with half as many paid officers as at present. The expenses of administration would be re-

duced proportionately, for the very simple but fundamental reason that if it is not known when an officer is coming into a district, he **therefore is present at all times.** One bank examiner, backed by a signed commission, keeps every national bank official and bookkeeper in a whole state on his toes every minute in the year, because no advance notice is given for the examiner's visits or the department's calls for statements.

The secret visit of a federal prohibition agent would amount to a check on law enforcement conditions in the community visited, and a report to Washington would either be a credit or a discredit to the law enforcement officers. The vital point in this plan is the **breaking of political entanglements** by the selection of prohibition directors from one state to serve a law enforcement policy in an alien state, allowing said directors to select their agents and inspectors without political recommendation.

Prohibition Inspectors

Step 4. One or more prohibition inspectors with necessary secret headquarters for each county, to be appointed by and under control of the state director.

A prohibition inspector should be a resident of the state to which he is appointed. He should never openly be making arrests but should be constantly reporting to and making investigations for the state director who is responsible for his appointment, location, and terms of commission.

Such inspectors should be under modified civil service requirements, and from this force the department would be able to recruit many efficient and valuable higher officers.

Step 5. No political co-operation. No rewards for information. No division of territory, authority or responsibility.

a. Political co-operation is impractical for the enforcement of a law over which there is such a division of sentiment. For a federal director to refer a complaint back to the local county officers for action is a waste of time and energy. With the system proposed herein, complaints would be re-

ferred to the federal inspector for that county, for investigation and report.

b. **Paying rewards for information is a dangerous experiment** in prohibition enforcement. Generally speaking only persons forced by circumstances, or those actuated by revenge, will enter the field of informers; and **the temptation to manufacture evidence** to gain an end, or for a meal ticket, is too great to make such a policy sound.

c. The quite common practice of dividing territory or classes of violators between the various enforcement units operating in a community, is obviously a prostitution of the law, for it leaves the well-financed rum runners, distillers and bootleggers with only one arm of the law to fix, in order to get by with their business.

d. The government can take full responsibility for the enforcement of the 18th Amendment and the Volstead Act without relieving state, county or city authorities in any particular. This rule also applies to prosecutions, except that it should be permissible to transfer a state case to the federal courts.

Step 6. A revolving fund at the disposal of state directors to cover emergency expenses of deputies and agents.

It takes immediate cash to purchase evidence, employ conveyances for men and materials, and pay temporary agents; and, since all directors are bonded, there is no reason why they should be handicapped by lack of funds—no reason for them to advance funds of their own.

Presidential Questionnaire

Step 7. A presidential questionnaire, to be signed and sworn to by all employees of the government having to do with enforcement of the prohibition laws.

An ordinary oath of office has not proved sufficiently binding for prohibition enforcement employees, and a document or questionnaire could be so framed that it would keep every applicant not in sympathy with the prohibition movement off the payroll of the Prohibition Department.

Step 8. The Volstead law should be amended to allow

the transfer of jurisdiction from the Commissioner of Internal Revenue to the Department of Justice; to provide for the deportation of aliens, on second conviction for violation of the prohibition laws; to provide a compulsory jail sentence for all convicted of driving an automobile or airplane while intoxicated.

a. It would appear from a study of the Volstead Act that an act of Congress would be necessary to change the prohibition enforcement unit from the Treasury Department to the Department of Justice, but such a change is not necessary for the development of the policy herein proposed.

b. Statistics from many states show that about 80% of the violators of the prohibition laws are either aliens or foreign born, and drastic measures are necessary to curb this disrespect for our fundamental laws.

c. Traffic conditions in the United States have reached such a stage that driving an automobile while intoxicated becomes such a menace to life and limb that it should be recognized as a major crime.

The same thing should apply to airplane pilots, as both federal and state laws should recognize.

Quit Joking

Conclusion: The time has come to stop joking about the Constitution of the United States. It should be considered **treason to poke fun** at the fundamental law of our country, and when notice goes out from the Department of Justice of the United States that the Constitution must be respected both in word and deed it will mean the end of such disrespect and the beginning of a new era in the honest enforcement of one of the greatest moral laws ever passed by an enlightened people.

The late presidential election has demonstrated beyond any question that a great majority of the people of the United States believe that the 18th Amendment is a good law, and that **they do not want it abandoned, but enforced and obeyed.**

MULTIPLY ENFORCEMENT SUCCESSES

Judge Ewing Cockrell
Circuit Court, Missouri
President U. S. Federation of Justice

1. **The Eighteenth Amendment is effective—to an extent.**

Notwithstanding its failures, its successes have been many, its blessings are great.

The problem essentially is to make it **more effective—to multiply these successes and extend these blessings.**

The plan here submitted is to **utilize all the actual achieved successes** of the 18th Amendment. It presents concrete means of extending the definite methods and practices by which all these successes have been won.

2. **Eighteenth Amendment effectiveness consists of two halves:** (1) **obedience**—getting everybody possible to obey it; (2) **enforcement**—punishment of those disobeying it.

This plan covers both halves.

3. **Eighteenth Amendment enforcement is literally nobody's business.** It is the business of many independent bodies.

The violator of the Amendment fights nineteen soldiers of the law. **If he whips any one of these nineteen, he wins the whole battle.** These nineteen are (1) police; (2) prosecutor; (3) trial judge; (4) authority selecting the jury panel; (5 to 16) twelve jurors, any one of whom may block a verdict; (17) appellate court; (18) jailor; (19) pardoning authority.

Slippery Bootleggers

If the police don't catch a bootlegger, all the other officials are helpless to convict him. If the jailor does not hold him, the efforts of all the others have been futile.

Hence effective enforcement comes only from all these

groups being effective. It requires **not one but many** "plans."

This plan provides **all** the "best" enforcement plans for all officials, and brings such plans to **all** officials.

4. **Complete obedience must come not from one group of citizens but from all groups.**

This plans reaches all groups.

5. **The best plans are worthless if not followed.**

Officials and people follow their leaders. This plan is, in essence, endorsed by the nation's leaders, Chief Justice Taft, Vice-President Dawes, Speaker Longworth, Majority Leader Curtis and Minority Leader Robinson of the United States Senate and Majority Leader Tilson and Minority Leader Garrett of the House of Representatives.

6. **Today,** many officials and individuals are doing finely in **part** of the work of making the 18th Amendment effective. But with millions of people interested in making it effective, **no official, no organization, no body exists today whose job is to get done the parts of the work that are not done.**

This plan makes 18th Amendment effectiveness the definite business of a definite somebody who is able to do effectively the definite things that need to be done.

7. **Making the 18th Amendment effective is a job primarily not of law, but of administration.**

Our officials normally are taught the **principles** of what **is** the law, but not the **practices** of **enforcing** the law.

There exist no colleges, law schools or other institutions that systematically teach law **administration.** And here are our breakdowns.

This plan provides for teaching officials and people **the concrete practices that actually are successful** in bringing 18th Amendment enforcement and obedience.

Machinery and Steps of the Plan

Let any individual or organization provide a specific organization (or individual) with the specific job of promoting **all the "best and most practicable plans"** or parts

thereof that are submitted to this Award Committee or **that may hereafter be found.**

This organization may work in any state or the whole country.

It can start very simply. For directors, a few leaders of the country (or state). For active staff, one capable executive and a stenographer. Call the organization National (or any State) Temperance Alliance or other desired name. (Called Alliance in this paper.)

Let the Alliance through this executive then do any of these things:

1. **Investigate all plans submitted in this contest.** Outline an investigation through existing literature and among officials, organizations and others most successful in getting the 18th Amendment enforced and obeyed, as to the specific methods and conditions securing such successes and how they can be imitated.

2. a. **Notify all enforcement officials and every chief organization of this investigation;**

b. **Offer to bring to them, free of charge, its results, in reports, manuals, etc.,** containing the methods, practices and principles that have actually proved successful in each department of officials and in each kind of organization, and specifically adapted to use by each department or organization;

c. **Invite leaders of such officials and organizations to approve in advance** the plan and steps of this investigation. Offer to modify any proposed steps to meet their approval. Invite them, few or many as desired to become active or advisory members of the Alliance. **(Enlist especially "wets" who advocate law obedience.)**

This creates an undertaking really by the officials and organizations themselves. This is extremely important.

The National Alliance could start quickly with this Committee of Award as initial directors or members. (Senators Borah and Glass would be specially valuable nationally and with officials.) It could quickly be enlarged to the most valuable organization ever formed in this country in this day to support any one law.

3. **Make the investigation as planned,** approved by the Alliance's members.

Compile for each department and each interested organization condensed reports of the successes actually achieved in such department or kind of organization and of the concrete methods, practices and principles that achieved them. Alliance members first approve these reports.

This could be well done in six months. Striking successes are already known.

Find Facts

4. **Get these reports to the officials and organizations through their own committees and meetings,** which would explain the reports and urge their use.

This procedure secures the maximum practical use of any plan.

5. **Compile and offer to the law schools brief courses and texts** that teach the successful principles and practices of 18th Amendment enforcement;

Compile and offer to the colleges and high schools courses and texts that teach the successful methods and means by which citizens and committees secure both enforcement and obedience.

Assist all schools, organizations and individuals to establish such courses.

6. **Continue and enlarge this work** and the "Alliances" in every state and community.

7. **Offer to assist organizations and individuals** in any way **and to serve as a clearing house on successful methods** of making the 18th Amendment effective.

No such institution now exists. This alone would be an immense, permanent contribution to the country.

8. **Publish a small periodical,** containing accounts of the Alliance's work, interesting news and successes by officials, organizations and communities, short descriptions of methods and plans for enforcement and obedience and many other helpful things.

Distribute free to all newspapers and interested organi-

zations' heads. Send copies to newspapers in advance with permission to use any material desired.

Secure advertising.

Secure additional paid circulation.

It apparently could be made self-sustaining, or better.

It would do a great deal of the work of the Alliance already outlined.

No such periodical now exists.

None of the foregoing eight things is now being done.

All the great results accomplished would be clear gain.

Outline of Proved Successful Plans That May Be Inaugurated Immediately

Enforcing officials

1. Appointment everywhere of many capable, part time, assistant police sheriffs and prohibition agents, paid from fines from convictions.

Efficiently multiplies police force many times, at no cost.

2. **Efficient police and agents' schools.** Multiplies effectiveness many times. (No new laws or expense.)

Prosecution

1. "Pile up" true charges in number and severity till defendant pleads guilty.

(No new laws or expense.)

Trial

1. Establish "unified," business court organization and procedure.

Revolutionizes courts in efficiency and economy.

(By new legislation.)

2. Select **only good jurors** for all panels.

(No new laws or expense.)

Can revolutionize "jury system."

Judgment

1. Imposition of heavy sentences. Parole after serving part. State control and guidance till reformation proved.

Punishment is a medicine, for deterrence and reformation. Don't give it all in one dose.

2. Payments by violators of this law **that will pay for all its enforcement.**

(No new laws or expense.)

Punishment in prisons

1. Employment of prisoners whereby each one earns wages and also supports his family.

2. Training for citizenship.

3. No prisoner released except under state control and guided back to law-abiding life.

Deterrence

Newspaper emphasis lessened on the success of criminals and increased on their convictions, punishments and miseries.

Personnel

Definite systems of reports and inspection that reveal the honest and corrupt officials and the efficient and inefficient.

(Usually no new laws needed.)

Successful Practices By Citizens

1. **Organizations asking candidates before election to follow specific effective practices.** Much publicity.

2. **Citizens' commissions.**

   a. **To learn facts;**

   b. To assist in criminal law administration;

   c. To promote best legislation;

   d. **To educate people on law enforcement.**

(A citizens' organization is valuable in every country and community).

Factors For Teaching Obedience

Schools

1. Practical, modern course on evils of liquor drinking.

2. Prizes for best compositions on appropriate topics; sponsored by leaders, especially the rich and "successful."

3. Course on law obedience, advantages, or disadvantages of obedience.

Picture shows

Stories promoting obedience and enforcement.

Newspapers

1. News and other stories of same type as picture shows.

2. Publicity correlating all other steps in enforcement and obedience program.

Organizations, business, social, civic, religious, etc.

1. Resolutions that encourage obedience.

2. Joining in appropriate movements, already outlined; furnishing funds where necessary.

3. Organization of special groups, e.g., **business houses publicly barring employees who drink—hosts and hostesses not serving liquor,** etc., etc.

All the foregoing are established successes; most of those in police, prosecution, trial and judgment in the writer's own courts. Full reports exist of all.

They show enormous possibilities.

Anybody, the Alliance especially, can promote their establishment everywhere.

A Specific Simple Program for the President

An actual part of his job as enforcement official and national leader. Executed with use of but two officials and with little time on his part.

I. Enforcement

Let him have capable chief enforcement official:

1. **Have this survey of successes of enforcement made;**

2. **Compile manuals** of these and of the practices and principles by which secured;

3. Have department or bureau heads explain the manuals, adapt them to varying conditions and direct their use;

4. **Prescribe reports from officials** of their use and results;

5. Provide much publicity and encouragement to this successful use; possibly competition and awards.

Above is simply **federal** enforcement.

6. Later, or at once, offer manuals to state officials.

7. Offer to pay expenses of officials attending conferences where manuals are explained.

In all this, public opinion and officials generally would follow the President's lead.

Thus, the present achieved but scattered successes of enforcement would be multiplied enormously over the nation.

Obedience and Observance

Let the President have the Commissioner of Education or other official:

1. Investigate the successes of prohibition obedience and means whereby secured.
2. From this investigation, compile into reports and manuals:

a. The best school courses that teach obedience;

b. The best means for organizations and groups to promote such obedience;

c. The best family training for such obedience;

d. How all these are best established.

3. Offer these reports and manuals to all organizations and groups.
4. Offer to educational and organization heads capable men to explain and adapt these reports.

Millions of people would gladly follow the President's invitation, and everybody would know what to do.

Now millions have nobody to follow and know not what to do.

The cost of the essential parts of this presidential program would be **nothing.** Existing officials and appropriations would be ample.

Its great extension would cost only a small sum. Where millions have been spent by the government to promote the raising of good hogs, thousands would suffice to promote the rearing of obedient children.

Any President can do this, in whole or in part, at any time. Any Alliance at any time can help him do it.

Operation of the Law

We talk much about the failures of this law, but do little about its successes.

Its successes exist and are easy to find.

Let's find them and use them.

MR. AND MRS. PROMINENT CITIZEN

District Judge A. T. Cole
Fargo, North Dakota

EVERY case brought into any court for the enforcement of the prohibition laws should be recorded in short form, whether prosecuted or not, and if dismissed without prosecution, the prosecuting attorney, or his assistant, whoever handles the case, should file his reasons with the clerk of court, briefly stating the substance of the case and his reasons for moving a dismissal, these records to be public and subject to inspection. These reports should be made not less often than once in every three months.

Anyone giving a fictitious name when being prosecuted should be deemed guilty of a misdemeanor if the offense for which he is being prosecuted is a misdemeanor, and of a felony if the offense for which he is being prosecuted is a felony, and he should be punished accordingly, in addition to the punishment of the offense itself.

Any sheriff, constable or other peace officer and any prosecuting attorney and any one assisting him in the prosecution, that wilfully and knowingly permits any one to use a fictitious name, or consents thereto, should be deemed guilty of a misdemeanor, with a severe penalty attached, and be prosecuted accordingly, and also be subject to removal from office.

Publicity as to offenders is the most effective weapon to help check liquor offenses.

Any attorney defending a person charged with violation of the prohibition law, and any person assisting in the defense of such person so charged, who wilfully and knowingly consents to the use of a fictitious name by the person charged, should be deemed guilty of a misdemeanor, if

the offense charged is a misdemeanor, and be deemed guilty of a felony if the offense charged is a felony, and be punished accordingly.

There should be a federal law, and each state should have a similar law, declaring that any person having a quantity of liquor in his possession or about his private premises, naming the minimum amount, to be used as a beverage, should be deemed guilty of a misdemeanor, and be punished accordingly.

Any one aiding or abetting the violation of the prohibition laws, should be declared to be a principal.

The United States should have a law that when two or more persons jointly violate the prohibition law, **they and each of them, should be deemed guilty of a conspiracy to violate a constitutional mandate,** and a separate punishment should be provided therefore, in addition to the punishment of the offense itself. Each state should have a similar law.

Any one allowing another wilfully and knowingly to **use his automobile or other vehicle to transport intoxicating liquors contrary to law,** should be deemed guilty of a misdemeanor where the crime itself is a misdemeanor, and of a felony where the offense itself is a felony, and be punished accordingly, whether transportation is state or intrastate. This is partly provided for in present laws, but they should be straightened and broadened.

Sacramental Wine Violations

Applications for sacramental wines should only be granted on applications in writing, executed and signed by the minister, priest or rabbi who makes the application, and such application should state that the wines will only be used for sacramental purposes in church, and not be handed over to members to be used in their homes for the claimed purpose of sacramental purposes; and the laws, both federal and state, should provide that if any part or portion of the wines withdrawn for claimed sacramental purposes is used for any other than sacramental pur-

poses such act shall be declared to be a fraud upon the government and be punishable as a misdemeanor, with heavy penalties attached. Each instance of misuse should be deemed a separate offense. The applications for wines for sacramental purposes should be filed in duplicate or otherwise in the county where the wines are received, and a duplicate receipt showing the amount received should also be filed, showing dates, etc., all being made a part of the public records open to inspection at all times.

Sacramental wines should be permitted to be used only in church for sacramental purposes. At present there are certain ecclesiastics who obtain sacramental wines in great bulk, and distribute much of them among parishioners, to be used by them for claimed sacramental purposes. This practice, **which is more common than most people are aware of,** should be stopped by stringent laws.

More severe penalties should be provided for in the laws of the United States, with a reasonable minimum, with the power of suspension entrusted to judges, as there are many cases where a suspension of sentence would be justified and all purposes of the law be well served.

State Enforcement Acts

Every state should have broad enforcement statutes and they should be vigorously enforced. The law should have a local arm in each community. This is needed to successfully enforce it, and to stamp the traffic in intoxicating liquors everywhere as a species of outlawry. The moral sentiment of the people must have public expression.

Every manufacturer of any kind of liquor permitted by law, should be compelled to **keep a full and detailed account of all liquors manufactured, to whom sold and when sold, for what purpose sold, and also the amount sold in each instance, to whom consigned and how consigned,** open to inspection by proper public officials at all times, and to be used in court if necessary, and a detailed duplicate report to be filed with the government as often as every three months.

A Law Revision Commission

Congress should immediately provide for **a law revision commission** through the appointment of a suitable person, to be empowered to invite the governor of each of the states to appoint a suitable person to come to Washington at a fixed time, and **this body of men to agree, if possible, upon a code of prohibition laws** to be recommended to the Congress of the United States and the legislative assemblies of the several states for adoption and for better enforcement of the prohibition laws.

Throughout the several states, in many of the counties, in too many cases young and comparatively inexperienced attorneys are selected as prosecuting attorneys. Against them is opposed in very many cases the best legal talent that can be procured, and by reason of this fact many prosecutions fail that should be successful. **Men of mature age and of years of experience should be selected as prosecutors, but to get them a much better salary would have to be provided for than is paid by many of the counties at the present time.** In some larger counties, especially those having large cities in them, a public prosecutor is well paid and good talent obtained, but such counties are limited in number.

The Chief Offenders

The prohibition law must have enforcement against Mr. and Mrs. Prominent Citizen with the same vigor and certainty as it is enforced against less prominent people. The law must not be permitted to be a respecter of special classes, nor give them special privileges.

The truth is that **the liquor traffic is kept alive by a large number of prominent people of considerable wealth,** who can afford to spend liberal sums of money.

The people of moderate means are not the ones who perpetuate the liquor traffic; their purses would not hold out for that purpose. The traffic is continued because of the patronage of a large number of Mr. and Mrs. Prominent Citizens.

The fact should be kept before the public at all times,

and iterated and reiterated, that if a large number of Mr. and Mrs. Prominent Citizens would obey the prohibition laws privately as they do publicly the liquor traffic could not continue. **This is a prominent cornerstone in the matter of the enforcement of the prohibition laws.** A large number of Mr. and Mrs. Prominent Citizens must give a better account of themselves.

If a concurrent resolution could be put through the Congress of the United States and the legislative assemblies of the different states, **declaring it a requisite to good citizenship that each person uphold each and every fundamental law of the nation and the states,** while this would not be an absolute mandate, yet **it would have great moral force and would help materially in waking the people up to their personal responsibility in all matters.**

INCREASE PENALTIES, PAY INFORMERS

A. E. Condy, Police Officer
Glendale, California
Formerly of Northwest Mounted Police of Canada

MAKE fines and jail sentences more drastic for anyone found guilty of selling, manufacturing or transporting more than one pint of intoxicating liquors, and **in every case of violation attach a jail sentence,** minimum 90 days for first offenders, minimum 365 days for second offenders and for a third offense a penitentiary sentence of not less than five years.

Let the government offer a substantial reward to persons who turn in information to the proper authorities which would **lead to the arrest and conviction of violators;** this reward to be not less than $100 per violator. Also **this reward should be increased for second and third offenders.** This would have a tendency to make **the general public one solid enforcement body** and thereby relieve the several governments of large payrolls for law enforcement officers who under present conditions cannot enforce the 18th Amendment as expected of them by the public as a whole. Huge sums are literally thrown away in salaries at present. The proposed fines would more than pay the above mentioned rewards, **with a good profit to spare** and at the same time get the desired results by enforcing the 18th Amendment.

LET THE BUYER BEWARE!

Judge James L. Cooper
District Court, Canon City, Colorado

1. **Adopt** a law, or laws, **making the purchaser equally guilty with the seller.**
2. **Abolish the rule of evidence**—in the case of violation of liquor laws—**which relieves the accused from incriminating himself.**

The obstacles to enforcement are opposition on the part of so many people, and difficulty in getting evidence to justify conviction. The plan suggested would overcome in a large measure both of these difficulties. **Many citizens who now purchase liquor would not do so if their act were unlawful.**

The bootlegger cannot exist without customers. If his customers were equally guilty with him, and each compelled to disclose the transaction, **many citizens who now purchase would cease to do so rather than become a violator of law,** and others would hesitate to take the chance, knowing that they might be brought into court and held accountable for their own acts and compelled to disclose their bootlegger. It would be much easier to convict and the plan would **make it possible to reach the "higher ups."**

It would stigmatize the purchase and consumption of intoxicating liquor and hasten the day when consumers of intoxicating liquor would lose caste in society.

The laws suggested would not be obnoxious to the Constitution, nor contrary to sound public policy.

IMITATE THE COAST GUARD

Charles L. Cowell
Chief Yeoman, U. S. Coast Guard
Portsmouth, N. H.

1. Government In Earnest

IT must be recognized that any plan for the successful enforcement of the prohibition law must include as a most important feature an aggressive, intelligently planned effort to enlist the active support of those people who, for one reason or another, have become pessimistic regarding the possibility of enforcing this law.

Still another class consists of normally law-abiding citizens, many of whom are in favor of prohibition as a national measure, but do not practice it in their private lives and thereby assist in the process of nullification.

It is necessary to convince the classes referred to that it is the determination of the government to enforce this law, and bring to their realization that it is their duty as citizens to give their full co-operation and assistance toward enforcement. This can be done by educative propaganda.

The government must initiate and disseminate this propaganda through available publicity channels; it can be taken for granted that the decent element of the public press, once it realizes the government has adopted a program that promises successful enforcement, will give its full support.

2. Coast Guard Efficiency

Of the forces now engaged in the suppression of illegal liquor traffic, observation indicates that the Coast Guard has achieved the most satisfactory results. It is admitted that some members of this organization have been implicated in bribery cases, but these have been few, and those found guilty have been promptly punished.

The prevention of smuggling of liquor has been added to the other numerous duties of the Coast Guard and it is to the great credit of this service that the **notorious "rum rows" have been practically eliminated** and that smuggling through areas patrolled by units of this organization has been reduced to a minimum.

3. Semi-Military Enforcers

The ineffectiveness of other agencies for enforcement is evident and the situation demands a complete reorganization of methods.

A force charged with the duty of enforcement on land (aside from coastal areas under the jurisdiction of the Coast Guard), and particularly for inspection duty at ports of entry, should be organized and placed under the authority of the Treasury Department, in order that it may function in full co-operation with the Coast Guard.

This force should be semi-military in organization, or at any rate should have the character of a national police force. Its personnel should be carefully recruited, **the subject of past record being paramount in considering the recruit's desirability.**

Careful attention should be given to the establishment of a high morale and **esprit de corps,** with enforcement of the law as the ideal.

There are in the country many ex-service men whose experience has given them a realization of the importance of amenability to discipline and the prompt and strict performance of duty; these men should make excellent material for this force.

4. Prompt Punishment of Alien Violators

Statistics indicate that a large percentage of violators of the law are aliens and no leniency should be shown this class of offenders. **Conviction of an alien should entail, for the first offence, deprivation of all future privileges of American citizenship, and for the second offence, deportation as an habitual lawbreaker.**

BONUSES FOR CONVICTIONS

Daniel D. Cronin
Captain of Police, Denver, Colorado

THERE is an efficient and economical plan which would reduce our present force of enforcers 25% to 50% throughout the land.

All undercover men, stool pigeons and others of their ilk could be done away with if first we did away with political, fraternal, religious and personal friendships and influences that are now used to shield and acquit the violator when he is brought to trial.

Trace Whiskey's Grain Sources

Have the federal government check on all sugar sales and other products that whiskey is made from. Municipalities, counties and states could also check on these products.

This sales list should be open for inspection to all enforcement officers. If a large sale was made to anyone and the officer's suspicion was aroused, the sugar or other products could be traced to their destinations.

Reward Enforcement Officers

Give enforcement officers $20 **for each conviction, in addition to their regular salaries.** Give an added reward or **bonus to the officer** in any municipality, county, or state **who secures the most convictions in each year.**

This would put a price on the bootlegger's head. **He could not bribe all the enforcement officers,** especially in municipalities where he is known to bribe the men that walk the beat on which his place is located.

I have always noticed that **officers are anxious to work many extra hours to arrest a navy or army deserter because**

they get $25 for each deserter arrested. If a price were put on the bootlegger's head, and the superior officers did not interfere with the subordinates, **what a cleaning there would be!**

This little reward of $20 would be such an incentive to the officers in general that **they would not need any stool-pigeons, undercover men or outside help of any kind.**

The payment of $20 for each conviction would be much more economical and efficient than all present plans or procedures.

Remove Lax Chiefs

When any constable, marshal, sheriff, chief of police or any other chief law enforcement official is **found lax in performing his duties** in regard to prohibition enforcement, and complaint has been made and proven by any responsible body of citizens or taxpayers, **said official should be discharged, impeached, or gotten rid of by any other remedy.**

This would stop the practice of chiefs of police **shifting men that are making a record in enforcing this law.**

District attorneys and judges who are too lenient should also be removed.

Maximum Sentences

Prevail on all judges to give the maximum jail sentences and fines. This would help prevent the real offender from hiring one of his pals or accomplices to plead guilty in his behalf.

In numerous cases there are three or four parties involved, and **to escape a second offense charge, which always carries a more severe penalty, the real offender gets one of his pals to plead guilty.** He then pays the fine.

Maximum fines and jail sentences would stop this. They would also help discourage bootlegging in general.

All Sheriffs In One State Force

As each state has about 60 counties and a sheriff elected or appointed in each county and as he always has one or more deputies, **this large force of sheriffs and deputies could**

be mobilized and sent into any county of the state to arrest prohibition violators.

To use this large force effectively, the governor of each state should be compelled by law to appoint a chief or master sheriff of opposite political faith and at a fixed salary. This chief sheriff would have authority and supervision over all the sheriffs and their deputies in that state.

This would do away with bribery and favoritism as where sheriffs are now elected or appointed by wet interests.

Then on complaint of any responsible body of citizens or taxpayers from any county in the state that bootleggers were doing business unmolested, or that the local sheriff was unable to cope with them, the master sheriff would have the authority, and it would be his duty, to take as many men as he needed to go into that county and arrest all violators and restore respect for the prohibition law in that county.

As all sheriffs and deputies work at fixed fees and salaries, it would be only a slight additional cost to shift them from one county to another, and what a mighty efficient and economic force this would be! They could not play politics or show favoritism if they wanted to.

Revoke Violators' Licenses

Revoke all licenses of licensed places where the owner or manager has been duly convicted of violating prohibition law and keep such places closed as long as possible. If the actual owner of the property is not operating the place, some law should be enacted that would force him to give sufficient bond to cover the lawful operation of his place.

I have heard chief enforcement officials claim that if they revoked the license, the owner or lessee could and probably would seek a writ of mandamus and force them to renew or reissue the license.

That is pure political bunk. In my 25 years' experience as a police officer I never heard of a law violator applying for a writ of mandamus to have his license restored after being closed by the proper authorities.

Use Army and Navy

I believe, like Henry Ford, that the army and navy should be used in enforcing this law. Use the army along the Canadian and Mexican borders and the navy along our sea coasts and waterways.

As the taxpayers at large have to pay the salaries of this force, and it would be only a slight additional cost to use them in this work, why not give them a chance? No doubt they would arrest thousands of violators and they would put a stop to shipments from foreign countries.

The psychological effect upon the country would create much more respect for prohibition **because it would show that Uncle Sam meant business.**

Shift Enforcers

To eliminate graft and temptation **federal men should be shifted, at least once a year,** except the regional commanders.

Federal men should be discharged, regardless of political affiliation, if they are proven guilty of graft, favoritism, lax enforcement or refusal to co-operate with local officers.

Stop Supplies for Home Brew

Laws should be passed to prevent the display and sale of malt and hops, and all beer- and wine-making appliances.

A check should be made on all these products, and **when it is found that any family or any party or parties whatsoever have purchased such a large amount that it indicates to officers that the purchase was made for illegal purposes,** then the premises of such party or parties should be searched, **and if they are found to be making any beverage of illegal alcoholic content they should be jailed.**

There can be no respect for any law that hosts of citizens **violate and openly flaunt because they know the officers will not invade their homes to arrest them.**

Of course a great many people will say such a law would be too drastic and that the people's homes should not be invaded. But if the prohibition law is a good law, and I

certainly believe it is, why not do away with sentiment and let the officers enforce it as they do any other law? Respect for all laws should be fostered in the homes.

Try Official Propaganda

Propaganda paid for by state and federal governments, and also by all organized temperance societies, should be given wide publicity in the press of the country.

I believe this would give better results eventually than any other plan. Use at least $1,000,000 of the annual federal appropriation each year for this purpose.

This propaganda should be continued as long as good results were obtained.

The citizens at large should be urged to obey the law themselves and also to assist the enforcement officers in every way they can.

This would **eventually lead to a revulsion of feeling against the violator, and from then on enforcement would be easy.**

Judges should give maximum penalties, district attorneys should be urged to prosecute all cases vigorously, "shyster" lawyers that defend the violators by shyster methods should be ridiculed and **bar associations should be urged to ban them from their clubs and memberships.**

AN ENFORCEMENT COMMISSION APPOINTED BY THE JUDICIARY

W. L. Curtis
Assistant District Attorney
Dallas, Texas

THE purpose of these amendments being to correct evils in administering the law rather than a change of the entire law, a statement of the purposes to be accomplished will precede the proposed changes.

The most important step is to take the enforcement of the law out of the hands of the politician and drive the issue out of politics so that the lawless element can not trade, traffic and connive with the politicians and the politicians shall have no patronage or influence to offer in exchange for votes.

The danger of this issue in politics is seen in our recent national campaign where the repeal of the Amendment and modification of the prohibition law were the principal issues and prohibition was referred to as "the pork barrel for political grafters" and the charges made that three-fourths of the dry agents were "political ward heelers named by politicians without regard to civil service laws." Leaders in politics and Congressmen and Senators who formerly led the fight for the adoption of the Amendment were most active in support of the candidate who denounced the law as a failure and proposed a modification of it, thus placing party allegiance and selfish interest above the welfare of the country.

Through political channels the Amendment was adopted and it can be repealed only through these same political channels, but if the politicians with insincere and corrupt motives are allowed to fan the burning embers, they will soon break out into flames and consume to ashes the good already done.

It is agreed by authorities on civil government that the

most intelligent and effective way to put into force and effect new governmental reforms is through a commission appointed to investigate and familiarize itself with the evils to be eliminated and sponsor legislation, rules and regulations necessary to carry out the purpose of the amendments.

Prohibition Out of Politics

Art. 2, Section 2 of the Constitution provides that all federal officials (except the President, senators and congressmen) shall be appointed by either the President, heads of departments or courts at law. Since heads of departments are appointed by the President, the appointment of this commission by either the President or heads of departments would result in keeping prohibition an issue in politics.

The federal judiciary, composed as it is of men of all shades of religious and political beliefs, has maintained the highest standard of all government officials for fearless, fair, honest and impartial conduct in office. Their tenure of office is made dependent only upon good behavior and they should not be and are not usually influenced by party loyalty or political expediency.

By reason of their duty as trial judges in liquor cases they have gained a most intimate knowledge of the workings of the law with its defects and imperfections and obstacles in the way of the dry agents. Commissioners appointed by them and guided by their wisdom, will bring to the commission as a whole, knowledge and information obtained from unbiased and unprejudiced minds rich with experience and trained in administering the law. The commissioners and dry agents will be under the constant observation of the courts and grand juries selected by these judges. This will serve as a check upon the commissioners.

It will be observed that this proposed law is elastic in its nature, allowing the commission to bring any district judge, district attorney or marshal it may desire into any district where it is feared that the courts or other officials are derelict in their duty and by this means the commission serves as a check upon any district court and the commis-

sioner appointed by it. At the same time it allows the commission to **bring the entire prohibition enforcement staff into any district.** The commission would thus have sufficient power to entirely supplant federal judges and attorneys in localities where violations are most flagrant.

A Bootleggers' "Rogues Gallery"

After a district has been once cleared of its violators it will require fewer men to keep the district clean and be harder for the new bootlegger to build up his trade, more especially when his picture hangs in the rogues gallery in every city in the United States.

The work of cleaning up can be more effectively accomplished by a strong centralized effort in the district where the violator is well entrenched than by sending dry agents wildly over the entire United States.

If the bootlegger is allowed to ply his vocation unmolested he will soon build up a fortune and gain admission into the best homes, society and business circles and be looked up to and respected because of his wealth. When charged with violating the law he will exert a powerful political influence against prosecution.

When he is convicted in one part of the country he may, after serving his time, go to another part of the country, change his name and ply his vocation without being soon apprehended because of the inefficiency of methods for keeping a check on him. And when again convicted his prior record is unknown and he may receive a lighter punishment than he deserves.

When the bootlegger knows that his picture hangs in the rogues gallery in every post-office in the United States and that there is no place where he may go without being gazed upon by the public or detected by enforcement officers before he even begins his trade, he will find that plying his vocation as a bootlegger is neither pleasant, easy nor profitable.

When the citizen learns that by looking in the rogues gallery he may see some friend or some friend of his

neighbor or associate or even some member of his family, he will learn to avoid the snares and pitfalls for his own children, his neighbors and friends, and the bootlegger will be regarded as an evil to be shunned and avoided and not merely a technical offender.

Public exposure is sometimes a more effective deterrent to the evil doer than the fine or imprisonment imposed.

Proposed Amendments

1

Congress shall create a commission for the enforcement of the 18th Amendment to the Constitution of the United States and laws relating thereto, which commission shall have such power and authority as may be necessary to carry out the purposes and intent of said amendment.

2

The commission shall be composed of one member from each federal judicial district in the United States and territories, to be appointed by the judge of such district, and shall hold office for such time and receive such salary as may be fixed by law.

3

No person shall be eligible to hold office of commissioner who has not attained the age of years, and must have been a resident citizen of the district for at least four years prior to his appointment, and of good moral character.

4

Before assuming the duties as commissioner he shall subscribe to an oath to support and uphold the Constitution and laws of the United States and to faithfully discharge the duties of such office, and that he has not, since the adoption of the 18th Amendment, violated any of the prohibition laws of the United States or any state thereof.

5

Each commissioner shall be the head and have general supervision and control of the enforcement of the prohibition

laws and all employees in the district from which he was appointed; provided that **by a majority vote of the commission any commissioner may be removed** from the district from which he was appointed and another commissioner transferred to such district, who shall have and exercise all of the power and authority vested in such resident commissioner.

The Commission At Work

6

Said commission shall hold at least two regular sessions of its members in Washington every year for the purpose of discussing conditions and disseminating facts over the entire United States, and for the purpose of establishing and promulgating such methods, rules and regulations as may be deemed necessary, and for such other purposes as may be within the general scope of the powers and purposes herein conferred.

7

All employees now engaged in enforcing the prohibition laws and who are holding their positions by virtue of civil service laws shall be transferred to and be under the supervision and control of said commission, and all persons hereafter appointed or selected, except the commissioners, shall be by civil service selection. Provided that **any employee or commissioner may be impeached and removed** from office by a majority vote of the members of said commission for any reason deemed sufficient by them.

8

The commission shall have power and authority to transfer all or any number of prohibition enforcement officers to any district and keep them in such district as long as it may be deemed necessary.

9

When requested by a majority vote of the commission it will be the **duty of the Department of Justice to transfer any district judge, district attorney or marshal requested by them to any other district** of the United States for the trial

and disposition of any case or cases of violating the prohibition laws pending in such district, and the officer so transferred shall exercise exclusive jurisdiction over such case or cases and offenders while acting by virtue of such transfer.

Central Identification

10

There shall be established and maintained by the United States a **"Bureau of Identification,"** to be under the supervision of said commission, and **every person** confined in any penitentiary or jail of the United States for **violating the prohibition laws** of either a state or the nation **shall have photographs, fingers-prints and Bertillon measurements** made and printed on government bulletins, together with a record of all indictments and convictions, and **sent to every post office** in the United States serving a population of over 1500 persons and there filed and kept open for the inspection of the public and for the use of enforcement officers.

Such government bulletins, photographs, finger-prints and Bertillon measurements shall be recognized as legal and competent evidence in the trial of such offender charged with violating the prohibition laws, and shall be considered by the court in determining the amount of sentence imposed; provided that any such bulletin may be impeached by legal and competent evidence.

OFFER LARGE REWARDS

Arthur M. Custer
Receiving Desk, Police Department
Los Angeles, California

THIS contestant believes that he is peculiarly fitted to give "expert testimony" on this subject, owing to the fact that for over four years last past, he has been "on the firing line" for enforcement of the liquor laws in the city of Los Angeles. During that time he has been employed every night at the receiving desk of the "vice squad" (the liquor law enforcing squad) of the Los Angeles police force.

During said service, he has received over the telephone from citizens thousands of reports as to where liquor law violators could be found; he has handed these reports to officers assigned for their investigation and has written up the arresting officers' reports in thousands of cases; he has had splendid opportunities for studying the problem of law enforcement, having discussed the problem with all classes of citizens during that period.

Los Angeles Leads

The Los Angeles police department, of which this contestant is a humble member, has in recent years been first and foremost among all cities of the nation in securing evidence against bootleggers and other liquor law violators and convicting them in court. Government records give first place to the Los Angeles police for percentage of convictions in liquor law violation cases during 1927. During that year, official figures show that of all persons arrested for violation of the state's "Wright Act" (the enforcement law of California), 85% were convicted and a scant 15% only escaped the weight of the law! This was a far better

record than that obtained by any other city in the same period of time.

To what was this due? Perhaps to several causes, but, in the estimation of this contestant, **the principal cause was the unceasing efforts of our Chief of Police James E. Davis*** in requesting the appropriation of **ample funds** and the **granting of such requests** most liberally, by our patriotic council and mayor.

These special funds have been used by Chief Davis for **rewarding persons who co-operate with the department in securing evidence** leading to the conviction of liquor law violators.

With this cause in mind, the contestant now presents his plan, which he believes, if adopted, will prove the end of the bootlegger, manufacturer of illicit liquor, and smuggler, in this good old United States of America.

The Plan

1. Congress (and any state legislature) should amend their present liquor laws by providing for a "Reward Fund" —the bulk of which shall be contributed **from fines and other penalties** assessed by the courts against violators.

2. With this fund established, Congress (and any state legislature) should print and post in every public building, and along the public highway, any one or all of the following notices, the figures here being merely illustrative:

$5,000 Reward

For information leading to the arrest and conviction of any person, or persons, **owning, possessing, or operating a distillery, commonly known as a "still,"** of over 100 hundred gallons' capacity, in violation of the 18th Amendment.

$1,000 Reward

For information leading to the arrest and conviction of any person, or persons, **having in their possession or operating an illicit distillery, commonly known as a "still,"** of less than 100 but more than 20 gallons capacity, in violation of the 18th Amendment.

* For Mr. Davis' own plan, see page 197.

$500 Reward

(The same as above but less than 20 gallons capacity.)

$500 Reward

For information leading to the arrest and conviction of any person, or persons, **selling liquor, in quantity of over one gallon,** in violation of the 18th Amendment.

$500 Reward

For information leading to the arrest and conviction of any person, or persons, **manufacturing wine or beer** in violation of the 18th Amendment.

$100 Reward

For information leading to the arrest and conviction of any person, or persons, **selling liquor in quantity less than one gallon of liquor** in violation of the 18th Amendment.

School Children Attention!

$1,000 Reward

will be paid to any person under the age of 18 years, who can give information and co-operation leading to the arrest and conviction of any person, or persons, **selling liquor to any child under the age of 18 years.** (This can be increased to 21 years. It is to stop liquor with the present generation. School children make splendid operatives.)

$1,000 Reward

For information leading to the arrest and conviction of any person, or persons, **smuggling** into the United States, from any place outside the borders of the United States, **any liquor**—in quantity over one gallon—in violation of the 18th Amendment. (For Congress only; to be posted around ports of entry, and along the borders of the United States.)

It will be noted that **no "war" is made on the consumers of liquor,** it being believed that consumers should be encouraged to co-operate in cutting off their own suppliers.

CONTINUOUS STUDY OF CRIME CAUSES

Harwell G. Davis
Former Attorney General, Alabama

IT is possible to progress toward making more effective the 18th Amendment only by **discovering the causes for the prevalent lax enforcement** of the laws enacted in accordance with its mandate and by **finding the means or forces by which the conditions or circumstances contributing to this particular class of lawlessness can be eliminated.**

A survey of criminal conditions in the United States discloses a **serious disregard for many laws.** The statutes passed to make effective the 18th Amendment to the Constitution are not the only criminal statutes frequently and flagrantly violated.

A committee appointed by the American Bar Association to study crime conditions reported "that the criminal situation in the United States, so far as crimes of violence are concerned, is worse than in any other civilized country."

Every reliable source of information aids in establishing the sad failure of constituted authority to adequately cope with lawlessness in this country. From this it is a logical conclusion that **many of the causes of the failure to enforce the prohibition laws are causes which contribute to the failure to enforce virtually all criminal laws.**

All Crimes Aided by Each Crime

Crimes of various characters are so interlinked that to eliminate a cause contributing to the lack of proper enforcement of any particular crime it is essential to eliminate it as a contributing factor to all lawlessness.

One of the principal reasons why lawlessness exists to such an alarming extent is because **constituted authority in the United States is not as well organized nor as efficient in the use of scientific means and modern methods to**

apprehend and punish law violators as are criminals in the use of all means and methods to prevent detection. This is well illustrated by the Minnesota Crime Commission:

Crime's Efficiency

"Criminals are well organized, and make use of effective methods of attack. A bank or store robbery today is planned as a job for a band, each member of which is skilled and rehearsed in his particular role. Local conditions are studied in advance. The most favorable moment is utilized. Protection is provided for the operators. Means of rapid departure from the scene of the crime are in waiting. Arrangements are perfected for advantageous disposition of the booty, and, no doubt, means of legal defense are prepared for emergencies."

As observed in that report the unorganized law enforcement agencies of many states appear to distinct disadvantage when compared with the efficient organizations of some criminals. Only a limited number of states and a few of the larger cities have sufficient law enforcement organizations, and often, in this day of swift travel such cities and states find that the trail of crime leads beyond their jurisdiction.

We must combat crime as a nation.

A Federal Bureau of Crime

Congress should create and establish a bureau of crime with as wide powers as Congress can grant to detect criminals; to ferret out crime; to secure and disseminate information as to criminals and the modern methods and scientific means available with which to fight crime; to develop enforcement organizations best adapted to the service of the state and smaller governmental units; **to secure the co-operation and co-ordination of all state and other enforcement agencies with the Bureau of Crime,** and to do all other things conducive to securing a more wholesome respect

for law. As the enforcement of the prohibition laws is made a national responsibility by including it in the Constitution, this bureau could be specially charged with its enforcement.

It is realized that Congress has no power to usurp control of state law enforcement agencies, or to organize such agencies without the consent of the state. But this organization and co-operation can be secured. In addition to the willingness of most states to lend aid to law enforcement, Congress could make it too much to the interest of a state for it to refuse to be a member of this national organization. By co-operation and **by granting financial aid,** Congress has secured adoption by the states of its conditions and standards as to highway construction, vocational education and agricultural extension work. In the same manner the states could be induced to meet congressional conditions and standards as to the efficiency, organization, co-operation and use of its law enforcement agencies. With its power Congress could **directly grant money** and with funds to aid the states in organizing and co-ordinating their forces, the bureau would soon develop an organization that would make a great contribution to securing law enforcement.

The next most important legislative measure necessary to proper law enforcement is **a reform of criminal court procedure.** There is an imperative need for this in many states. This has often been urged by many of our ablest lawyers and jurists. The vital consideration is—how is such a reform to be secured?

It is submitted that **the report of a permanent official commission** charged with studying conditions and recommending changes would be more persuading on law-makers than the statements of private persons or committees of private organizations. It would be in line with the purposes of the **Bureau of Crime to have such research and report made from time to time.** It could seek uniformity of laws relating to crime. The American Bar Association has accomplished much in securing uniform legislation relating to several subjects. It would be quite an advantage to

have uniform national and state statutes making the 18th Amendment effective.

Suppress One, Weaken All

The foregoing suggestions are made applicable to all crimes because the conditions sought to be corrected are common to the failure to enforce most criminal statutes and because **in suppressing one character of crime you eliminate an ally that assists in sustaining all crime.**

Perhaps the chief difficulty in securing observance of prohibition laws in some communities, which difficulty is not very common to the enforcement of many criminal statutes, is an extensive public opinion that such statutes are not wise and unjustly deprive the individual of his rightful personal liberty. We are not concerned in this article with the soundness of this view for we are confined to "A plan to make effective the 18th Amendment," which pretermits both modification and repeal. We are interested, however, in determining **whether or not there is a practical way to remedy this sentiment, which is most detrimental to a full enforcement of the law.**

Some evils cannot be cured by legislative fiat. The removal of some causes is a long and tedious task, but we **should not become impatient or abandon a law as a failure because the political conscience of some community refuses to be transformed immediately upon the enactment of a law.**

Where opinions and convictions are involved we can only seek to **set in motion the influences calculated to change their judgment.**

Teach Benefits of Observance

While a law enforcement organization which applies unrelenting pressure on law violators is the greatest direct contribution the law-making body can contribute to compelling respect for law, there can also be advantageously used persuasive tactics.

Education and propaganda are both potent means of

molding public sentiment, and it is probably practical to use both for the very commendable purpose of securing proper respect for law. During the World War the government engaged in propaganda to create public opinion to sustain its arms on the field of battle. The same weapon can be used in time of peace to uphold the fundamental law of the land.

In Alabama the laws require that instruction as to the evil effects of alcohol on the human system be given in every public school. Congress could make it possible for the Bureau of Crime to secure the aid of state educational institutions in teaching citizenship, the necessity for respect of constituted authority, the evil effects of alcohol on the human system, and the beneficial results of a strict observance of the 18th Amendment.

The assistance of many private organizations and prominent persons could be enlisted. Probably a number of newspapers would carry articles similar to those being published by the Christian Science Monitor under the title "Prohibition Fruitage," which have fortified the faith of many in the wisdom of the law.

Reference is made to the preceding ways of presenting the merits of the law to secure its popular approval as illustrative of the fact that some practical effort can be made to eradicate the adverse attitude of many to the law.

The provisions of the laws enacted to make effective the 18th Amendment could be made more potent, but these changes are of minor importance when compared with the fundamental causes contributing to our lawless condition. The Bureau would soon discover and disclose the changes needed.

Preserve Traditional Liberties

In conclusion, there is no political edict the issuing of which would without delay produce efficient law enforcement. The solution of such a problem must be approached with extreme deliberateness. It is not practical nor just to resort to extreme methods that even suggest the abandon-

ment of the long recognized guarantees to the individual of life, liberty and property.

There is but one reasonable course and that is to seek the more fundamental causes and find, if possible, a practical plan to remove them. In the "Foreword" of the "Outline of the Cleveland Crime Survey" there is this statement, as underlined by me, relative to crime waves in that city:

> "The survey shows that Cleveland's plight was attributable to deeper and more fundamental causes than any personal responsibility. It was rooted in conditions due to the great increase in the complexity of the problem of law enforcement, coupled with the persistent survival of antiquated methods and institutions. The remedy must come through a long series of reforms and readjustments in all machinery for law enforcement."

In the plan proposed we have sought to establish an official body that will analyze the exact conditions and point out the adjustments necessary.

Fit Changing Conditions

The proposal has the capacity of adapting its work to constantly changing conditions and of meeting new and modern demands.

It furnishes the basis on which can be erected an efficient national organization to suppress crime.

It definitely places responsibility for vitalizing law enforcement and advising the public as to the cause of uncurbed violations.

From the experience and research of such an official fact-finding bureau means of securing respect for law would be found which we are now unable to anticipate.

The necessary limitations placed on this article prevent attempting to set forth the details of legislation embodying the proposed plan. Only the outline and the central idea can be presented. Suffice it to say that every suggestion made is within the power of Congress and has in principle an established precedent.

A POLICE CHIEF'S PLAN

James E. Davis
Chief of Police, Los Angeles, California

ALL persons engaged in law enforcement activities today must of necessity, if they indulge in any serious thought, be deeply disturbed by the spirit of lawlessness everywhere encountered. In no direction is this defiance of law so prevalent or so bold as in the contempt shown for one of our most sacred institutions, the Constitution of the United States. This contempt for the 18th Amendment to the Constitution is not confined to social outlaws. It extends into all branches of our national social and economic structure.

Persons prominent in our social life and holding positions of leadership in our professional, business and industrial worlds seem to have no conception of the contagiously disastrous effect of their own support of an outlaw "industry." Their money gives it power, their known sympathy and patronage give it prestige in places where it should be shown no quarter.

Human psychology is such that contempt for any law, openly indulged in with impunity, breaks down respect for other laws. Defiance of the liquor statutes is menacing the very foundations of government—destroying respect for law and for the agencies charged, not only with liquor law enforcement, but with the administration of all criminal justice.

To one intimately acquainted with conditions as they now exist, the situation is sufficiently grave to demand drastic action. So long as the 18th Amendment remains a part of the Constitution, it is imperative that its enforcement be made vastly more effective than it now is.

To a practical-minded police executive that can be accom-

plished through the following reorganization and extension of the federal machinery, with a consequent branching out into new lines, particularly in the direction of **deliberate seeking of co-operation from state, city and county enforcement agencies, and from the citizens at large,** in groups and as individuals. It is, therefore, proposed that the federal government organize its activities for enforcement of the 18th Amendment along the general lines outlined:

I. **Centralization of authority in a single head,** working under an inter-department board or in the Department of Justice.

II. **Organization of the field activities by states,** instead of the present geographical districts, **with a federal prohibition administrator for each state,** responsible directly to the general director. This state administrator would be held responsible for enforcement within his territory. One of his most important duties would be to see that **cordial co-operative, practical working arrangements** are established **with all local law-enforcement agencies** in his territory.

He would likewise be expected to have established and maintained **contact with all men's and women's organizations, church groups, business associations, public health agencies, and with individuals genuinely interested in liquor law enforcement**—working out with them a program of co-operation whereby they might act as allies by furnishing valuable information, being instructed by the federal agents as to what is helpful and valuable and what is comparatively unimportant and wasteful of time and energy.

III. **Employment of a much larger federal force, at a higher rate of pay, with higher personnel standards.**

IV. **General organization:** The service should comprise the following general functional divisions, each headed by an assistant director, responsible directly to the general director and with specific duties.

1. Division of Investigation

1. To maintain a force of federal agents whose whole time would be devoted to the detection and apprehension of

persons violating the federal statutes designed to carry out the provisions of the 18th Amendment.

2. To assign these agents to the state directors, who would supervise their work while so assigned.

3. To assign agents to all border and coast states **for special coast and border patrols** to apprehend persons engaged in importing liquor.

4. To maintain a **special picked group of under-cover operators at national headquarters to be used as a highly mobile unit,** subject to assignment by the general director to any section of the country.

5. To co-operate closely with state police, sheriff's offices and police departments on liquor law enforcement.

6. To **conduct training classes for new agents, giving intensive instruction in laws, rules of evidence, court procedure, etc.**

7. To hold **regional conferences with local enforcement executives** where mutual problems could be discussed and effective co-operative action mapped out.

2. Division of Identification

1. To maintain at national and state headquarters **record offices where identifying data (including fingerprints) on all arrested persons** shall be received.

2. To record fingerprints and other identifying data on all persons arrested for violation of liquor laws, **copies to be filed in both state and national headquarters.**

3. **To exchange records on liquor law cases** with state bureaus of identification, with the national bureau, with federal and state prisons, and with local peace officers.

4. To search files and make return to arresting officers immediately upon receipt of new records, so that they may have full information for prosecuting attorney and court of all prior arrests. **(This is a very vital piece of work entirely lacking at present,** so that the heavy penalties attaching to "priors" are rendered ineffective for lack of identifying **evidence).**

3. Division of Prosecution

1. To exercise general supervision over the prosecution of all liquor law cases in federal courts, to the end that such prosecution shall be **certain, speedy and uniform** throughout the country.

2. To asssist in the prosecution of all federal liquor law cases **when in the opinion of the Attorney-General** such assistance is necessary.

3. To make constant observations and **report to the general director when federal court calendars are so crowded as to cause considerable delay** in the trial of liquor cases.

4. To make **constant study and analyses** of the existing liquor laws and of court decisions based thereon, and to **recommend to the director general such new statutes or amendments** as may be required to bring about better observance of the 18th Amendment.

4. Division of Research and Public Relations

1. To secure from all state headquarters, U. S. district attorneys' offices and the federal courts, **statistics relative to the number of arrests** for violations of the liquor law, **exact disposition** of each case, **property confiscated, premises padlocked, cases appealed and final decision in each, etc.**

2. To secure from state, county and city authorities similar statistics relative to arrests and disposition of cases for violations of state enforcement laws.

3. To tabulate these figures in such a manner as to **provide reliable and conclusive information as to the functioning of all parts of the machinery** for the enforcement of the 18th Amendment.

4. To prepare and print **monthly and annual statistical reports** making these figures available for all interested groups.

5. To serve as an **information source for organizations and individual citizens** desirous of knowing the facts about prohibition enforcement.

6. To organize **speakers' bureaus**, national and state,

registering persons properly qualified to speak on the subject of prohibition.

7. To prepare and release items and articles for publication.

8. To carry on continuously a stimulative, constructive, educational program having as its object the changing of the public attitude toward law observance through revealing the dangers to the nation inherent in contempt for law.

9. To maintain a close liaison with all national organizations working in any phase of social or economic welfare.

To put the above plan into effect requires but two things, considerably increased appropriations and properly qualified persons to do the work. Both can be brought about, if persons of influence have the nation's welfare sufficiently at heart to set to work to do so.

SALESMANSHIP RESEARCH

Robert M. Davis
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New York

THE future enforcement of the 18th Amendment to the Constitution **is basically a business problem.** As a business problem it must be approached from a practical business standpoint and solved in accordance with the recognized rules of good business procedure.

Such has not been the approach to the question up to the present time. It has been treated almost entirely as a "great moral experiment," in a materialistic age where independence of action has dominated all human thought. The Amendment was passed as a moral issue **against the violent protest of a large minority—a minority which has been sufficient in power, wealth and strength to render complete enforcement almost impossible.**

Millions of good Americans feel that the law is a **violent intrusion into the sphere of private morals,** and that it is **no crime to disregard it or actively seek to bring about its nullification,** if repeal cannot be obtained.

So long as such a conviction abides and increases in this country it is **idle to resort to strong-arm methods in the effort to extinguish it.**

Enforcement can be completely successful only if the normally law-abiding citizenship acknowledges the value of the law. Enforcement through force against the sentiment of a large minority of the law-abiding citizens soon becomes tyranny and cannot be permanent in character.

As a business proposition, however, the question enters into an entirely new sphere of human thought and action. Today even the partially educated readily comprehend the terms "increased efficiency," "increased production," "lower

production costs," "larger net profits," "higher wages," "lower cost of living."

Such phrases mean "more dollars," "increased purchasing power," "more comforts," "more leisure"—**phases of human well-being which appeal and are readily acceptable to all members of all strata of society.**

It is as the **"great business experiment"** and as the **"great business asset"** that the American people must approach the 18th Amendment if it is to be ultimately and completely enforced in this nation. The moral side must be made subservient to the practical business side, and all of the American people must be sold to the fact that **in the rigid enforcement of this Amendment lie continued future comforts and material pleasures through increased consumer purchasing power.**

The Solution

As a business problem the successful enforcement of the 18th Amendment falls under four distinct divisions of recognized business procedure:

1st: **Economic Research—practical research into the commodity being sold:**

A detail and thoroughly scientific study of the economic assets and liabilities resulting from the enforcement of the 18th Amendment since its adoption.

2nd: **Education—An advertising campaign of a superproduct:**

A nation-wide educational program selling to the American people the economic benefits of prohibition as determined by the economic research studies.

3rd: **Methods of Enforcement—Salesmanship research:**

A study to ascertain the deficiencies of present enforcement methods with a view toward evolving enforcement methods which if applied will enforce but not offend.

4th: **Effective Enforcement—Sales achievement:**

Rigid enforcement of the 18th Amendment among all classes and grades of society in all localities and without partiality.

A National Prohibition Commission

To insure proper co-ordination as well as to give authority to the economic studies, education and final enforcement, the problem and its solution should be placed under the direction of a special governmental commission. This commission should be designated as the **"National Prohibition Commission,"** and should consist of the Secretary of the Treasury, under whose direction the 18th Amendment must be enforced; the Secretary of Commerce, whose function is the upbuilding of American business and industry; and a private citizen appointed by the President of the United States with the approval of Congress.

Such a commission should be established by act of congress, its functions specifically designated, and appropriations made to carry on its work as outlined in the following paragraphs:

Economic Research

The first step in the solution of a business problem is to establish a background—to ascertain the exact situation and to establish factors which will determine the assets and deficiencies of, as in this case, the product or proposition to be sold to the public. The 18th Amendment has now been in force for about ten years. It has been without question an economic asset to the business and industry of the nation. **But what are these assets?** How has it affected wages, labor turnover, labor efficiency, production efficiency, production costs, transportation, distribution, retail trade, saving bank deposits, life insurance sales, financial investments, cost of living, as well as the social side—housing, education, recreation? These facts are unknown today, although they are available and are **essential to a convincing sales argument** as to the value to be placed by the American people upon the super-product—the economic advances to be gained by the effective enforcement of the 18th Amendment.

These miscellaneous economic facts should be ascertained by the National Prohibition Commission through the operation of **specially appointed committees of citizens, expert in**

the various lines of research. In order that definite and rapid work shall be accomplished by the various committees, such committees should properly come under the immediate direction of the Secretary of Commerce or of the private citizen on the proposed National Prohibition Commission, dependent upon the type of study to be undertaken by the specific committee. These committees would render a complete report to the member of the National Prohibition Commission who is directing this work, and these reports would be used by the National Prohibition Commission as a foundation for the next step—education.

The following committees should be appointed by the National Prohibition Commission to make the needed economic studies:

1. **Executives, engineers and economists to study the industrial economic advances resulting from past prohibition enforcement.**
   - a Labor efficiency in the factory
   - b Increased production
   - c Decreased production costs
   - d Labor disturbances
   - e Decreased turnover
   - f Decreased absenteeism
   - g Increased co-operation
   - h Increased wages
   - i Increased operating suggestions
   - j Increased interest through stock ownership
   - k Comparison with foreign labor

2. **Legal minds to study the various legal sides of the prohibition question.**
   - a State enforcement laws
   - b Relationship between federal and state enforcement laws
   - c 18th Amendment and Volstead Act relationships
   - d Canadian prohibition system
   - e European prohibition system
   - f State liquor distribution

g Interstate legal complications
h Federal and state court co-ordination

3. **Scientists, physicians, etc., to study alcoholic limitation.**
a Physiological effects of present alcoholic content
b Physiological effects of pre-prohibition alcoholic content
c Determination of proper alcoholic limit
d Alcoholic limit of foreign countries
e Physiological effects of beer
f Physiological effects of light wines
g Distribution for medical purposes
h Prohibition and general public health

4. **Labor leaders, economists and social welfare workers to study the influence of prohibition enforcement upon labor.**
a Home life
b Recreation
c Education
d Employment
e Strikes and lockouts
f Wages
g Increased efficiency
h Civic responsibilities
i Savings
j Psychological outlook

5. **Ministers of the gospel, representing all faiths, to study effects of prohibition upon the general religious life of the nation.**
a Church attendance
b Membership increases
c Donation increases
d Increased interest
e Increase in number of children in Bible schools
f Increased use of the Bible

6. **Educators to study the effect of prohibition upon the public school system and upon college education.**

a Attendance
b Reflection of better home environment
c Increased attention
d Higher marks
e Elevation in general outlook
f Increased interest in colleges in practical subjects
g Increased interest in colleges in cultural subjects
h Influence upon athletics
i Influence on college social life

7. **Welfare workers, economists, sociologists and psychologists to study social effects of prohibition enforcement upon all classes of the American population.**

a In the home
b Recreation
c Education
d Civic pride and responsibility
e Savings and investments
f Home ownership
g Comforts
h Freedom from worry
i Elevated marriage relations
j Decreased social evils
k Effect on crime
l Effect on general psychological attitude of the nation

8. **Economists to study the effect of prohibition upon general economic trends.**

a Cost of living
b Consumer purchasing power
c Commodity prices
d Cost of living and income by industrial groups
e Foreign consumer purchasing power
f Cost studies
g General trade
h Foreign trade

9. **Bankers, executives and general students of finance to study effect on prohibition enforcement on general finance.**

a Net corporation profits
b Savings bank deposits
c Building and real estate
d Security sales
e Stock-market transactions
f Corporation investments
g Money rates
h Business failures
i Bank debits
j Taxes
k Federal, state and city income

Educational

Having ascertained the facts, having through research established the economic results of prohibition and their place in the present industrial, business and social structure of the nation, the next step in the solution of this business problem is to **educate the American people to these facts.**

This phase of the study constitutes **the mainspring of the successful enforcement of the 18th Amendment.** The mental attitude of a large minority of the nation must be changed, not by preaching nor dissertations upon morals but **by the presentation of economic facts which will prove to each man and each woman that the enforcement of the prohibition law means increased consumer purchasing power.**

Adult education based upon the humanly inherent principle of egotism and paternalism is in line with present-day pedagogic thinking. **When the American citizen**—the business and industrial executive and also the man-of-the-street—**realizes that each dollar spent for intoxicating liquor results indirectly in decreased material profits to himself, to his family, to his business and to his country,** then and not until then is he going to back the officers of the law in the enforcement of the 18th Amendment.

Such Education a Federal Function

Education is a function of the American government. **The education of the American people by the federal government upon this constitutional question,** therefore, is not a radical step, but **is just as natural a federal governmental procedure as is the extensive campaign on waste elimination now being waged so successfully by the Department of Commerce.**

Such education should be directly in charge of the Secretary of Commerce or the presidential appointee as member of the proposed National Prohibition Commission, should be amply financed by congressional appropriations and should be based upon the following methods of procedure:

1 A weekly publication stating the economic facts of the various surveys
2 A publicity bureau
3 Billboards
4 Radio talks
5 Lectures in public schools
6 Discussions before churches, service clubs, etc.
7 Lectures with movie charts
8 Active endorsement of economic findings by industrial, business, trade and labor organizations
9 Co-operation of industrial executives in employee education.

Methods of Enforcement

Having ascertained the true facts relative to the economic benefits of prohibition, having educated the American mind to these facts, and having won the sentiment for the prohibition laws through the weight of economic argument, efficient enforcement becomes the next phase of the problem. This requires first a study of present enforcement methods by committees under the direction of the Secretary of the Treasury:

1 **Legal minds** to study the present federal and state enforcement laws **with special consideration to revising the**

laws to make them more effective and more fully co-ordinated.

2 **Legal minds, executives and welfare workers** to study **present abuses** in the administration of prohibition enforcement.

3 **Executives** to study **enforcement methods best suited to industrial workers.**

4 **Government officials** to study **more efficient methods of prohibiting smuggling and bootlegging.**

Rigid Enforcement

Enforcement agencies:

1 Federal prohibition land force
2 Federal prohibition water force
3 State constabulary
4 County and municipal police force.

As an integral part of the American Constitution the 18th Amendment should be rigidly enforced.

As an economic detriment to the national well-being, the importation, manufacture, distribution and sale of intoxicating liquors should be prohibited as effectively as is the importation and sale of narcotic drugs.

If the economic facts are ascertained, the people educated to believe and have faith in these facts, and the enforcement laws revised to eliminate present existing abuses, the **rigid and complete enforcement of the 18th Amendment should be as easy as is the enforcement of laws against narcotic drugs, general smuggling and other crimes against the national commonwealth.**

REQUIRE JAIL SENTENCES

R. O. Davison, Justice of the Peace
Hidalgo, Illinois

IT seems as if all justices of the peace and judges are inclined to give only the minimum fine as punishment.

So my plan would be to make **the minimum punishment one year in the penitentiary and a fine** of $1,500, or two years in the penitentiary when offender is unable to pay the fine.

After paying the cost of prosecution the balance of fine money would be paid to the state and used to pay the cost of keeping the prisoner.

In other words, **make the offender pay for cost of enforcement.**

We must make punishment severe and sure if this violating of the 18th Amendment is ever to be stopped.

STOP SUPPLIES FOR HOME BREW FORFEIT "PRE-VOLSTEAD CELLARS"

Frederick C. Dezendorf
Head of Plant Control, Prohibition Unit
Washington, D. C.

MY plan is to accept the National Prohibition Act, which was the first step taken by Congress to enforce the 18th Amendment as the basic act, and with my proposed amendments **build up and strengthen the said National Prohibition Act,** thereby rendering the 18th Amendment effective.

All laws to be successfully enforced should be made to apply to all alike, the rich and the poor, the high and the low. Otherwise the law will be regarded as discriminating in favor of one class as against the other class of people.

The provision of the National Prohibition Act (Section 33) which allowed liquors to be retained by those possessing same in their private dwellings when the said Act became effective, to be used for the owner's personal, family and guests' use, has made many of the poor and humble class claim that they were discriminated against. They say that the high and rich have no objection to the law enforcement because they have stocked their wine cellars or storerooms with the best of liquor and are allowed to serve them at will to themselves, their family and friends, while the poor man who comes up from the bowels of the earth in a coal mine, or the fireman from the red hot furnace, is not able to refresh his thirst and body with even a glass of beer or wine.

While courts have held this provision of the Act legal and not discriminating in law, because the poor man had the same right to lay aside a supply of liquors for his use, yet

the opportunity under the law was a mockery when the cash to purchase same was lacking.

Therefore, in order to now put all men on a level in fact in this regard, I suggest that Congress be urged to amend or modify Section 33 of the National Prohibition Act and **declare all remaining "Pre-Volstead" liquors** now possessed in the United States for the private use of the owners, their families and guests, **confiscated or forfeited** from the date of the Amendment. Authority for such forfeiture has been upheld by the courts.

Punish Purchasers

Again, to remedy another unfairness and discrimination in the National Prohibition Act, the Act should be amended **to include as violators of the Act and to suffer penalties therefor, purchasers of illicit liquors.**

It takes two or more persons to effect a sale or purchase of liquor and both or all parties thereto should properly be treated alike. Therefore, the several sections governing the sale and manufacturing of illegal liquors should be amended to include the other party to the transaction—the purchaser—and apply the same penalty to him. If there were no purchasers there would be no sellers.

With these two very apparent and much complained of discriminations removed, the enforcement of the 18th Amendment and the National Prohibition Act will be more easily accomplished.

The burden of proof should be placed by Congress on the party charged with illegal purchase of liquor, to show that the purchase was for legal purposes and under permit duly issued.

"Wort"

In order to stop the ever-increasing home brews and the wildcat beer making, **the burden of proof should be placed** by Congress **on the manufacturer and seller of wort or liquid malt, to show that it was not intended to sell to the purchasers to use same for home brews, wildcat breweries or other illegal purposes.**

Sacramental Wines

In order to stop the abuse of the sacramental wine privilege granted to Jewish congregations, now controlled and dispensed by certain rabbis (mostly of the orthodox church) and their representatives, I suggest that **permits to secure such wine be only granted to the individual entitled to same,** after application therefor has been filed and carefully investigated and approved by the prohibition officers. This permit **should be held and endorsed "non-transferable" and to be cancelled if transferred** or if the party securing the permit is determined not a proper person to hold same.

This change in the method of handling such sacramental wines will greatly reduce opportunities for illegal diversion and will eliminate the third person entirely from handling the wine.

Smuggling Treaties and Remedies

(a) Treaties to better control the smuggling of liquors on the international borders and from ships of foreign nations should be secured from Belgium, England, Canada and other countries whenever possible and to that end **a standing committee of Congress, or the State Department, together with the Treasury Department, the Prohibition Bureau and Commerce Department,** might be provided to study the laws, keep in touch with current smuggling conditions and foster treaties to require landing certificates and other relief desired from time to time.

This same body would encourage co-operation and concurrent action by state and city officials and governments.

(b) **Smuggling remedies.**—Provision should be made by Congress or departmental regulations that **all agencies of the United States government,** such as the Customs Service, Immigration Service and the Coast Guard, **be charged with the duty and given concurrent authority,** with the prohibition officers, **to apprehend liquor smugglers across the borders** and turn the offenders and evidence secured over to the prohibition officials to complete the cases and secure prosecution of the defendants.

Judiciary Provisions

(a) In order to relieve and not further clog the United States district courts, or delay trials of those charged with violations of the prohibition laws, I suggest that **United States commissioners be given greater powers and granted concurrent jurisdiction with United States district courts** to hear and try all first offenders, except in conspiracy and smuggling cases. The defendants should have the same right of appeal as in the district court from the commissioner's action.

(b) All cases involving a first offense pending in the United States district courts, when amendment is adopted, **should be transferred to the United States commissioners** in the respective districts, if the judge of the district court approve the transfer.

(c) In some jurisdictions, **in all first offenses** of illegal manufacture or sale of liquors, the **defendants are given imprisonment sentences.** This is true in California and some other states, while in other jurisdictions the courts do not impose a jail sentence in such cases.

In order to further make the 18th Amendment effective, I suggest that the National Prohibition Act be amended to **make imprisonment sentences mandatory in all cases where defendants are adjudged guilty of illegally manufacturing, selling, or purchasing liquors,** and further:

(d) That **in all second offenses** for illegal manufacturing, selling, **purchasing, transporting or possessing** of liquors, an **imprisonment sentence be obligatory.**

There is no doubt that **too much leniency has been shown the illegal possessor repeater** and it is time to call a halt and **make the possessors,** as well as the manufacturer, seller and transporter, **realize the law was passed to be observed and enforced without fear or favor.**

(e) Authority should be secured to allow assignments of certain district courts for the trying of prohibition cases **only,** during such periods as may be found necessary.

Regulating Employment of Prohibition Officials

Urge upon the appointing officials of the Treasury Department and Prohibition Bureau that prohibition officials and employees should be restricted as far as possible to those who not only personally practice prohibition, but who also believe in the prohibition enforcement laws, thus insuring enthusiastic support of the laws and a proper enforcement thereof to aid in making the 18th Amendment effective.

USE THE NAVY MORE

Commander A. G. Dibrell, U.S.N.
Naval War College, Newport, R. I.

THE Constitution of the United States and the laws enacted thereunder **give the President sufficient force at his command to enforce the prohibition laws.**

The oath of the President reads:

> "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Section 2 of the Constitution provides:

> "The President shall be the commander-in-chief of the Army and Navy of the United States, and of the militia of the several states when called into actual service of the United States."

Section 151 of Revised Statutes provides:

> "The permanent authorized enlisted strength of the active list of the regular Navy shall be 131,485, provided that the President is hereby authorized, **whenever in his judgment a sufficient emergency exists,** to increase the authorized enlisted strength of the Navy to 191,000 men."

Title 14, section 1, provides:

> "The Coast Guard shall constitute a part of the military forces of the United States, and shall operate under the Treasury Department in time of peace and operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war **or when the President shall so direct.**"

Revised Statute 5298, provides:

> "Whenever, by unlawful obstructions, it shall become unpracticable, in the judgment of the President to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any state or territory, it shall be lawful for the President to call forth the militia of any or all the states, and to **employ such parts of the land and naval forces** of the United States as he may deem necessary to **enforce** the **faithful execution** of the **laws** of the United States.

Available Boats

We have now out of commission 202 destroyers and 60 eagle boats suitable for patrol duty in enforcing the law. Employing these forces, which can quickly be made available, and placing the coast guards under the navy might not absolutely stop all rum running, but **it would so greatly increase the hazards that rum running would not be a profitable business.**

With the above additional forces of the Navy used to prohibit rum running by "pacific blockade," a recognized principle of international law, **an agent of the Department of Justice should always be on board each vessel of the fleet.** The Navy knows the shipping lanes and the best landing beaches, but once the rum runner is captured the representative of the Department of Justice should take charge and see it prosecuted through the federal courts.

Under Department of Justice

The Department of Justice is the logical branch of the government to enforce the prohibition law and the statutes should be amended transferring the duty and power from the Treasury Department to the Department of Justice.

On land the Department of Justice would have complete control and follow the cases through the courts. At sea its agents could actually be the responsible officers, the Navy acting only as a means to the end.

Any plan for enforcing the 18th Amendment and the Volstead Act will require the expenditure of additional funds.

25c Per Capita

There are at present 84,000 enlisted men in the Navy. To put this plan in effect would require **an additional 25,000 men,** well within the authorized strength of the enlisted personnel. This would cost approximately $12,000,000, and the cost of placing the ships in commission would require an additional $6,000,000 for the first year.

This **$25,000,000 per year or 25 cents per capita per year would put the proposed plan in operation.**

THE PRESIDENT, CHIEF ENFORCER

Brantley W. Dobbins
District Attorney, Solano County, Fairfield, Calif.

IN my opinion, based upon six years' experience as district attorney in one of the counties of the State of California, **the present law** designed for the enforcement of the 18th Amendment **would have been adequate to meet the conditions existing if law enforcement had been kept out of politics and so-called substantial citizens of the respective communities had observed and encouraged its enforcement.**

In order to overcome this condition now existing, I believe the President of the United States must first openly take his stand for prohibition and law enforcement. He must let it be known to the citizens of our country, first that he personally observes the law to the limit in this respect and, secondly, that its enforcement must be responsive to him directly. In order to accomplish this, I recommend the following changes:

Prohibition Police Courts

1. The transfer of the unit for the enforcement of the 18th Amendment from the Treasury Department to the Department of Justice. The creation within the Department of Justice of a Prohibition Unit under the direction and supervision of a Prohibition Director to be appointed by the Attorney-General, with the approval of the President, this Prohibition Director to be removable, of course, upon the direct order of the President.

2. **The creation within the division of each United States district court of a lower court to be known as a prohibition police court,** which would have original jurisdiction over all cases of possession, sale, transportation and manufacture of liquor for **first** offenders. This court to have a limit

placed upon its jurisdiction as to the amount of fines and imprisonment, or both, to be imposed.

The creation of this court would relieve the United States district court of congestion and delay in disposing of liquor cases. There should be departments to this court sufficient to handle the cases promptly and without delay. The judges of these courts to be appointed for life by the President.

For second offenders, cases of conspiracy, and those dealing with the violation of the Prohibition Act upon the high seas, original jurisdiction should be in the United States district court, based either upon a grand jury indictment or a preliminary holding from the prohibition police court. This would necessitate the modification of the duties of the United States commissioners only in respect to prohibition cases.

3. There should be established within the Department of Justice **a legal unit to handle prohibition violations alone.** In the office of each United States attorney there should be assigned to the prohibition police court certain attorneys who would handle these cases only, and whose duty would be to assist and advise the district prohibition directors in each district in the manner of securing of evidence of violations legally, and the proper presentation of such cases in court.

4. The creation **in each United States district court district** of the office of **District Prohibition Director,** who shall have charge of the prohibition enforcement in his district. The District Prohibition Director to be appointed by the Prohibition Director at Washington with the approval of the Attorney-General, and finally subject to the approval of the President of the United States.

Under-Cover Work

I believe in the continuation of the present system of under-cover work for the securing of evidence, however, with this recommendation:

a. **The payment of larger salaries** in order to secure better and higher types of operatives;

b. **These men not to be under direct civil service,** but to be appointed by the district director in charge, subject to the approval of the Prohibition Director at Washington. These operatives should be required to take **a test on the duties pertaining to their particular work,** such as the laws pertaining to seizures and duties as to securing evidence and as to what extent they can legally go in securing such evidence, and in making of arrests for violation of the prohibition law; this test and training, together with **a thorough check on their moral rating** to be sufficient, plus a satisfactory salary, to produce operatives of the better type and character to secure evidence of the violations of the Prohibition Act.

Alien Violators

5. My experience has taught me that **the greater percentage of the violators of the 18th Amendment are aliens and citizens of foreign birth.** This element in our country must be taught to respect the prohibition law. This would require **a campaign of education,** but to meet the present need, I recommend that **an alien who has been twice convicted for the violation of the National Prohibition Act, in any of its phases, be deported;** that a foreign-born citizen, on being twice convicted for the violation of the Prohibition Act, in any of its phases, lose his citizenship.

That our laws in that respect be amended so that such cancellation of citizenship and deportation can be legally and effectively accomplished without delay. This recommendation appears drastic, but it is necessary, in my judgment, in order to meet the present deplorable condition of bootlegging among our alien population and foreign-born citizens. Such a law would immediately restore to the minds of such aliens and foreign-born citizens a respect for our prohibition law and our government generally.

The President's Responsibility

The dominant idea of my recommendations is **to place the enforcement of the 18th Amendment directly at the door of the President of the United States.** He can, if he

desires, punish by removal, inefficient officials. In the appointment of Attorney-General, Prohibition Director, and in his ultimate control over lower appointments, **he can demand the enforcement that enforces.**

Further, while he cannot remove judges from the prohibition police courts, he has the appointive power, and can appoint only those of known sympathy with the 18th Amendment. When once the people of our country realize the President is throwing his weight and influence of his great office behind the enforcement of the 18th Amendment, **the one greatest single step will have been taken** to bring about proper respect for the 18th Amendment and enforcement of the law.

6 and finally: Among the duties of the Prohibition Director at Washington would be **securing data and disseminating information of the beneficial effects of prohibition in the various activities of labor and among the citizenship of the country generally.** This dissemination of information to be particularly stressed among the business and professional leaders of our country and campaigns of education along these lines maintained generally.

DEPRIVE OFFENDERS OF CITIZENSHIP

Thomas J. Doyle, United States Revenue Office
Little Rock, Arkansas

PUBLIC opinion may not be behind the 18th Amendment but I think it is. However, whether it is or not is immaterial. It is the law of the land, and such being the case it must be enforced, and the **lash of the law applied to those who wilfully violate its precepts,** so that they will respect it, if not in heart, at least by action. To enforce it, I suggest:

Let each voter—man or woman—who believes in law enforcement, cast his or her vote for men who will administer this law, as well as all others, equitably, and like Justice "be blind" to all entreaties to do otherwise. Not as now, when the **"higher ups" violate this law with impunity daily, even hourly,** yet on account of position, wealth or influence, are never called to account for their actions in a court of justice, though their dupes are.

The higher ups are really responsible for the increased violation of the 18th Amendment, as they are the brains, and furnish the capital and transportation facilities for the unlawful dealing therein.

In some places these **higher ups are hand and glove with the very judge who presides over trials,** as in some instances judges are practically elected to office by dealers in the nefarious liquor traffic. Thus these higher ups not only escape justice themselves, but **also see to it that their "runners" or agents are not sentenced, even arrested—or if arrested, are let loose.** They rush to their particular judge, and lo, the matter is at an end.

Every judge, both federal and state, should instruct and require his clerk of court to draw juries from the business element of men who will do their duty. Juries composed of business men, or men who have business to attend to, gen-

erally arrive at a verdict, while "professional jury servers" usually drag cases along.

By securing the best material in a community for jurymen, the state or United States would not only save money by dispatching business but such men are more educated and know better the law of evidence than illiterate men. Thus both defendant and state or United States would have a friend at court—Justice itself.

Whenever a jury brings a verdict of guilty **let the judge do his duty, regardless of the wealth or position of the guilty, sentence the defendant to jail, and impose the highest fine,** and then **take pains to see that his sentence is carried out** as to both imprisonment and fine.

HASTEN AND MULTIPLY TRIALS BY USING U. S. COMMISSIONERS

Fredd H. Dunham, United States Commissioner
Batavia, New York

LET the Amendment entirely alone.
Reasons: It is carefully drawn and **any tinkering with** it is likely to disrupt and confuse honest lovers of our Constitution.

Amend the National Prohibition Act in the following particulars:

1. Make the **illegal purchase** of liquors a misdemeanor punishable by a fine or imprisonment or both.

Reasons—**Bootlegging is based almost solely upon bribery** by those citizens who are willing to pay large prices for liquors smuggled into this country; to pay big prices for its transportation and sale to those unfortunate individuals whose appetites seem to justify them in offering prices for violations of the Prohibition Act which tempt men to smuggle, transport, and run speakeasies. It even reaches to those officials whose duty it is to enforce the law. **At present it is perfectly legal to purchase liquor.**

2. Make a **prison sentence compulsory upon all courts for any save first offense,** with right to suspension of same for first offense.

Reasons—Defendants are **not deterred by fines but do greatly dread seeing the insides of jails; they prize their personal liberty and freedom of movement more than they do their money.**

3. **Compulsory padlocking of premises** used in the sale of liquor after conviction of second offense affecting the same premises.

Reasons—This makes the **landlord or owner just as anxious to see the law enforced** as public officials.

4. Authorize district judges to **designate certain United States commissioners,** previously appointed by them, **to have the same authority to try cases as district courts now have;** at the same time authorize the removal of such commissioners for due cause by the appointing power.

Reasons—In all states which have no state enforcement laws, district courts are now **clogged by police trials** which actually prevent these courts from giving the defendants in violations of the Prohibition Act the necessary time to properly try the same and also prevent district courts from rendering to the people other services which are of equal or greater importance.

These conditions, of course, apply mainly where states have no state enforcement acts, and perhaps the above provision should be limited to those states.

More Use of Injunctions

5. Confer upon such United States commissioners, so designated as above set forth, **power to issue injunction orders after conviction of second offense by individual or premises,** with, of course, proper review by district courts.

Reasons—Same as set forth under 4.

6. Provide for the **immediate deportation of all alien bootleggers** upon conviction of same, plus forfeiture of claims to citizenship.

Reasons—More than 90% of those guilty of transportation of liquors are either aliens or those who have their first papers only.

7. Make the **giving or offering of a bribe to and the receiving or accepting of a bribe by** any public official to influence his action in regard to the Prohibition Act, a felony. Possibly this law is now covered by the present statutes but if there is any doubt about it, the same should be cleared up by a new statute.

No Favors In Jail

All bootleggers sentenced to jail or penitentiary should **have the same food and bedding as ordinary prisoners and**

not be allowed to transplant some fashionable restaurant to their cells and live like lords, with telephone, electric light and friends to their liking to comfort them—perhaps even being allowed to walk outside and even go home.

Denial of such privileges would deter many wealthy and high-toned bootleggers and rum runners from pursuing their nefarious business.

State, county and city officials should work hand in hand with the federal authorities. United State attorneys should supply state attorneys with lists of defendants convicted in United States courts, and after the prisoners serve state sentences let Uncle Sam do the rest.

For any state, county, city or United States attorney to refrain from doing this **should be grounds for dismissal** from office by Governor or President.

Every violator of the 18th Amendment should be tried first in the court issuing the first warrant of arrest and then by the court issuing the second warrant of arrest; it being compulsory on the state and United States to take action in such cases, as stated.

To further carry out the sentence, **let the maximum fine be imposed in each instance and collected forthwith,** where it is collectable. Where defendants are shown to have money in bank, or real estate, attach same to satisfy court order or sentence, thus honestly carrying out the order of the court. If defendant says he has no money or real estate, let an affidavit to that effect be signed and sworn to, so that if later it is shown that he has, he can be convicted of perjury.

Pardon boards, or governors where no pardon board exists, should act upon all pardons. No pardon for violating the 18th Amendment should be given any one, except where it is shown that perjured testimony was used to convict or that his health has failed in confinement—in which latter case require a certificate, signed by five physicians, none of whom may be selected by the defendant, to be submitted to court stating that death would result from further confinement. Even condition the pardon upon defendant's executing a bond in some reasonable sum to the effect that he will

never engage in the sale or transportation of liquor. Where the defendant cannot give a bond, because too poor, give him a parole, the violation of which causes him to be returned to prison to serve the remainder of his sentence.

Where persons are convicted of making whisky, selling it, transporting, or aiding and abetting in either of above or having it in their possession, their money and real estate in hotel, restaurant, public business or private residence shall be confiscated by the court and sold by appropriate order of court.

Deprive of Citizenship

A person convicted of violating the 18th Amendment **shall lose his citizenship and not be allowed to vote for a period of five years** after conviction or plea of guilty. At the end of that time, if he can produce affidavits that he is a moral citizen, and not engaged in sale of liquor, his citizenship and right to vote shall be restored.

Ships, boats, automobiles, motor propelled vessels or vehicles of any kind, carrying liquor, shall be seized by either state or United States with power to confiscate and sell such means of transportation and place the funds in court.

Where a judge is proved to be a drinker himself, or to have wilfully pardoned a man or aided in his pardon from a term for selling liquor, knowing he was not entitled to the same, he shall **be dismissed from service.** Citizenship and the right to vote to be denied said dismissed judge, as in the case of other offenders, with restoration of rights as in case referred to above.

With these suggestions incorporated into law by the different states, and United States, the day of the bootlegger and higher ups will be near at hand, and we will put the rum runners and higher ups out of business.

Banks, corporations, government officers and whoever hires persons, should require a statement, under oath, that the person to be employed, or already employed, does not violate any parts of the 18th Amendment.

Boards of trade, boards of commerce and other institutions, such as church societies or civic and political organ-

izations, should bar any member who is shown to violate the 18th Amendment.

The remedy may be harsh, but in this day and time, with no open saloon, the man who drinks or violates the 18th Amendment does so from choice, and not from environment.

The shining light will suffer with the lowly, including the professional bootleggers who wax rich and go to church and are never known to be such, except perhaps by the officers or the judge. This class of men are more culpable than the poor and ignorant—the ignorant may have an excuse that they do this to live but the higher ups can't say this.

Higher Ups Most Dangerous

Between the two the lowly bootlegger is a far more desirable citizen than the man who furnishes him money and whisky to peddle, and sits back in his armchair and rakes in the dollars, immune from prosecution by officers, knowing that if arrested he will be let loose by some judge who also is a violator of the law.

The educated violator of this law and other laws is the more criminal of the two, and the worst; he will not murder—he is too cowardly—but he will hire it done, as is the case frequently now in large cities. He will not steal, yet he sneaks away to some quiet place and clandestinely gives advice and money to his hirelings, who fill his coffers to the brim, while he goes to his business and other places, with the mask of respectability.

Show me a man who is the head of a rum running organization, and he will either murder or hire it done when pressed to the wall, in order to stifle evidence against him or his associates.

Rum runners have more power than a king. They are not proper citizens, neither are the men who operate under them. To take away their citizenship rights, after proper sentence, would, to my mind, be more effective than taking their time and money.

STOP VIOLATING LAW TO GET EVIDENCE

Arthur R. Ellison
District Attorney, Watkins Glen, New York

FOR nearly a decade the government of the United States has been attempting to make the 18th Amendment effective by operation of the Volstead Law. This has been characterized as an experiment in government. For the present, at least, it would be **more practicable to carry out the experiment to its conclusion** than it would be to make a radical departure or to attempt something entirely different when the present law contains many desirable features which should be retained.

Furthermore, the espousing of an entirely different theory of enforcement at this time might be regarded as an admission of the impracticability of the enforcement of prohibition. It is better then, rather than to discard the Volstead Act, that we should retain it in its present form but **strengthen it with additions** which will make it practically enforceable.

It is not the purpose of this plan to enter into a discussion, neither will remedies be advanced excepting **only those which seem to be peculiar to the law under discussion,** neither will remedies be advanced excepting those particularly adapted to such law.

The Volstead Act is **basically correct.** But, while it is well adapted to the effective enforcement of the 18th Amendment, the fact cannot be denied that **there are elements of weakness in the Act.** Those weaknesses make the Act the subject of criticism, such criticism often wrongfully extending beyond the Act to the Amendment itself.

The weaknesses of the Volstead Act will be taken up separately and remedies suggested as follows:

1. **The Volstead Act is not close enough to the people. Offenders are not dealt with speedily enough.** Offenders are tried in the federal district court, frequently at great distance from where the crime was committed and a long time afterwards. The district court has jurisdiction over felonies and matters, both civil and criminal, of great importance. The violation of the Volstead Act is only a misdemeanor and except in commercial violations on a large scale cannot be regarded as equal in importance, comparatively speaking, to other more serious matters coming before the court continually.

Speed Trials, Stop "Bargain Days"

The Volstead Act cases clutter up the court calendars and are looked upon usually as petty cases and not to be given much time or attention, that is, as compared with other cases. Thus they react against the dignity and effectiveness of the court. Frequently, **the cases are shoved through hastily; "bargain days" are often the result, and oftentimes perfectly good cases dismissed through delay and lack of attention** on the part of the prosecution, court or jury.

An effective remedy for this situation would be to take the enforcement of the Act, as to first offenders, out of the higher district court and to **give the U. S. commissioner jurisdiction to either have the case tried before him or before him and a jury** if the accused demand it.

Also **have a federal commissioner for each county at least** and **in the larger counties have enough U. S. commissioners** to conveniently handle the business with due regard both to volume of business and the geography of the county so that cases could be **brought to trial quickly** and **geographically near to where the crime was committed.**

There are at present a large number of U. S. commissioners, enough in some sections of the country, but **they have no jurisdiction to try offenders** but only to hold them for the federal grand jury.

There should also be **a peace officer or constable for every commissioner** to the end that search warrants could be served and offenders arrested forthwith.

The federal prosecutor or district attorney should have plenty of deputies or assistants and one of them should appear for the government upon the trial of each case.

Make Second Offenses Felonies

While the idea is here advanced that the ordinary first offense is a misdemeanor and a trivial matter and should be handled in courts of very inferior jurisdiction and small fines inflicted, second and subsequent offenses should be denominated felonies and should come before the district court as they do now and the offenders who are convicted there should ordinarily receive stiff prison sentences in addition to large fines; and as a part of the punishment all alien offenders should be deported and the premises whereon the liquor was sold, or possessed, or otherwise, should be closed for a period of time.

However, the theory is not advanced that the sentencing judge should be required or limited to impose a certain minimum as to the fine or imprisonment, as the time honored custom of giving to the judiciary discretion in matters of this kind must not be departed from. Mitigating facts might justify the court in its discretion in making the punishment less or even suspending sentence entirely, even as to subsequent offenders.

It should also be borne in mind that the infliction of an unreasonably severe punishment either by law or by the court in its discretion, will react against the enforcement of the Volstead Act and the Eighteenth Amendment by making it more difficult to secure convictions and thus bring about a result just the opposite from what the friends and promoters of such measures usually desire.

2. The fact that juries will not convict is another weakness of the enforcement of the Volstead Act. Any effort to deprive violators of the Act of their right to trial by jury and the judgment of their peers or to make anything less than unanimous decision necessary to convict, is a mistake, and does violence to fundamental constitutional and traditional rights of our citizens.

Investigate Jury Panels

The remedy for this weakness is to make it a matter of **proper investigation and to see to it that no one is allowed to be upon a jury list who is not in sympathy with the Act both publicly and in his private life,** and **the same remedy must be extended** beyond the jury and applied to the U. S. Commissioner, and to all peace officers and prosecutors who are connected with the enforcement of the Act.

This is a very important matter and should not only be the subject of investigation by the proper department of the enforcement unit both before and after appointment or selection, but any officer or juror above referred to should be made the subject of investigation upon the motion of any citizen, and complaints from citizens should be investigated.

3. **The third weakness** in the enforcement of the Volstead Act is found in **the detectives who are employed to gather evidence.** Fundamentally, these detectives are employed to get the evidence by deceiving the sellers into thinking they are bona fide purchasers. It is difficult for the government to secure men of good character and reputation to engage in this kind of work. Many of the detectives are unpopular with the people, are regarded with suspicion, and have caused great national scandal in the enforcement of the Act. Their testimony has to be corroborated, and they bring the government and the enforcement of the Act into disrepute.

The remedy for the last mentioned weakness is that **the gathering of evidence, so called, by government detectives, should be discontinued.** The government should employ men and many of them to work along lines of investigation to check up on places under suspicion of violating the Act, but **the government should not be a party to the violation of the Act.**

Make Search Warrants Easier

The investigators should not purchase liquor unless they can do so without deception. They should examine witnesses, citizens who may have information, and should

watch places where liquor is supposed to be sold and should watch the people who frequent such places, but always from the outside and in a lawful manner.

Along this line it is pertinent to add that the idea prevails that in order to get a search warrant from the court it is necessary that an affidavit be submitted to the court to the effect that the affiant had purchased liquor at the place desired to be searched and also that the affiant must be a federal enforcement officer. These ideas are erroneous, or should be. **Evidence should be submitted to the court sufficient to satisfy the court that there is reasonable ground** to believe the Act is being violated at the place in question, or has been violated, and **the Act should be amended** to the following effect if necessary:

> **There are a great many other facts besides the fact of purchase of liquor that should be sufficient.** Some of these facts are: **the congregation of drunkards** at the place in question; **the frequenting of the place for no apparent legitimate reason; people going in or out in a drunken condition;** the emanation of **liquor smells** from the premises; an **undue amount of noise or hilariousness** on the premises indicating the presence of drunken people, especially at night.

The above facts, or one or more of them, and many other facts and conditions about the premises or people frequenting them, **should be sufficient for the issuance of a search warrant.** This evidence should be gathered by the government investigators both upon their own motion and upon the complaint of a citizen.

The sworn affidavit of any reputable citizen upon any fact should have as much weight as that of any enforcement officer. For instance, affidavits of the above mentioned conditions, or any of them, or the affidavit of a citizen that he had purchased liquor at certain premises should be sufficient for a search warrant.

Licenses Permit Search

Furthermore, **by a system of licensing, the government should have the right in an increasing number of cases to search without a search warrant**; for instance, the licensing of soft drink establishments, pool rooms, bowling alleys and other places of business and amusement should provide for this, and the licensing of motor vehicles should carry with it the right of the government to search without a search warrant at all reasonable times and places.

With the modification of the Volstead Act and its administration, as above indicated, it is not claimed that a perfect result will follow. But it is claimed that the principal abuses will be eradicated and that as a result the principle of the 18th Amendment will be practically enforced.

The fact must be kept in mind that along with the machinery of enforcement, **the part of the citizenry in every community who are in favor of the Act must be properly organized and on the alert** and if the Act is to be properly enforced, they, in the final analysis, must take the responsibility. And if the Volstead Act can be changed so as to foster or encourage such activity on the part of the citizenry, that should be done.

Five Kinds of Citizen Co-operation

Among other things, the citizens, properly organized and properly fostered and protected by the government, must **work for the education of the people, especially the young,** upon the subject of the evils of intoxicating drink; they must work for the election to all elective offices of those who are **capable and in sympathy with the Act.** They must co-operate with the enforcement officers at all times, first, by imparting information relative to violations of the Act, second, by being responsible for and making of complaints both against violators of the Act and with regard to the qualifications and sympathies of jurors and other enforcement officers; and third, by being and furnishing jurors for the government, and insisting upon enforcement officials having ability, character and sympathy for the Act.

FIND FACTS, EDUCATE, PERSUADE and DIVORCE POLITICS FROM BOOTLEGGING

Henry O. Evans
City Comptroller, Pittsburgh

ABRAHAM LINCOLN once said, "No law is stronger than the public sentiment where it is to be enforced." Our entire history since colonial days is abundant proof of the fundamental correctness of this axiom. **Any plan, therefore, to make effective the 18th Amendment rests upon the sanction of public sentiment and opinion with respect to the Amendment.**

The prime necessity of sound planning in every aspect of life and as to any problem is, always, **accurate knowledge and impartial marshaling of all the facts** governing the case.

We have had too much opinion and too little fact-finding on both sides of this very controversial question.

The reliable evidence—the dry laws of 33 states before the approval of the Amendment; the ratification of the Amendment by all but 2 states; the votes upon such state referendums as have been taken; the progressive increases in dry majorities in both houses of Congress; the results in the recent election of President and Vice-President, members of Congress and state officers—**all goes to show the existence of considerably more than a majority of our voters in favor of the Amendment.**

In spite, however, of this weight of the evidence, it is generally said, and by many believed, that public sentiment is not, now, favorable to the Amendment. Since, as Lincoln also said, "A universal feeling, whether well or ill founded, cannot be safely disregarded," **positive and unequivocal demonstration of the present existence of public sentiment**

in the minds of more than a majority of our voters **in favor of the Amendment is the first step** in any practical plan for its effective enforcement.

Prohibition Referendum

Our first proposal is, therefore, the holding of **referendum votes** in each of the states, by congressional districts, **with ballots sufficiently detailed in the questions submitted to register every shade of public opinion.** It goes without saying that the questions must be fairly framed, without leaning towards either side, so as not only to answer the doubt already raised as to the conclusiveness of some of the referendums heretofore held, but also to elicit the fullest possible participation by the voters.

But more is needed than the mere demonstration of the existence of the favorable majority which the evidence before referred to leads us to believe already exists. Those who were active in support of the passage either of state dry laws or of the Amendment itself must be brought to realize that **their active co-operation is just as necessary now as before.** The danger which lies in systematic, widespread law-breaking must be impressed upon those who, while themselves total abstainers, have been passive and indifferent to the actions of others. **No law which alters so radically as this the habit of years is self-enforcing and its friends must be as positively for it as its opponents are against it.**

The practices of those who are still users of intoxicating liquors must be changed to personal observance of the law in spirit and letter. Some of these have been rationalizing their breach of the law by claiming that the Amendment does not have that consent of the governed which is necessary, in practice, under our theory of law. The proof we have before outlined will demolish this defense.

The Citizen's Stake

In times past total abstinence was not essential; it was enough if the individual was temperate. But the passage of

the Amendment has converted **failure by any citizen to practice total abstinence into a personal attack upon the foundations of good government.** Since the majority of our citizens are, as they must be, at heart, law abiding, it follows that they can be awakened to the danger which lies in their failure to observe the law, if the proper methods are used. Public sentiment can best and most effectively be aroused by **persuasion to general, willing co-operation in personal observance of the law as a rule of individual conduct.** During and since the Great War we have had striking proof of the wisdom and efficacy of persuasion as contrasted with force.

The movement must embrace, to be effective, every sort and condition of our people so that the common reproach that those who have the greatest incentives to law-observance are the greatest offenders may be removed. The question must be presented from every angle: on **moral grounds,** from the standpoint of **social and economic welfare,** and the **danger to our form of government.**

The older generation has had personal experience of the gross abuses of free sale of intoxicating liquors and of the failure of regulation. The present and coming generations are less likely to admit the danger of that which they have not seen and experienced. **Their education is especially necessary, both as to the facts of former times and by comparison of them with present conditions.**

The plan, as so far outlined, is directed toward demonstration and mobilization of willing, voluntary co-operation acting positively for personal, individual support and observance of the law. The methods suggested are those of **persuasion and education, based upon fact-finding, addressed to the vast majority** who, when the conscience is aroused, desire to do the right. But there remain, outside of these, two great classes of active opponents: those who prefer the gratification of selfish appetite to the general will and good, and those who are willing to pander to these selfish instincts for one or another reason. As to both of these classes force is the only practical method.

Buyer Guilty As Seller

As to the first of these classes, the present practice is weak in that it treats the buyer as less guilty than the seller. This is illogical because, as a rule, the majority of buyers, by education, background and standing in the community, know the right, and because of that fact should be charged with a greater responsibility and treated with greater severity than now obtains. A change, both in legislation and practice, which would **make the buyer equally guilty and vulnerable with the seller would automatically bring about elimination of most of the law-breaking.** After the lapse of eight years, in but few cases is liquor lawfully in the hands of the individual citizen. **The burden of showing that his possession is lawful should be cast upon him.**

Perhaps the **greatest hindrance to enforcement is the alliance widely existing between the local police officials and the bootlegger.** It is a common theory of party politics that the party "machine" cannot be maintained except by the expenditure of large amounts of money. It is, unfortunately, too common for those in high command of party politics to wink at payment by the bootlegger to those who are doing the routine work of the "machine." No more valuable and effective work can be done by a mobilized and aroused public sentiment than the education of party leaders who believe in or yield to such false premises. They must be **convinced that such a price paid for party success is too great and too damaging both to the party and to the general good.**

Again, education and persuasion are the indicated methods. If education and persuasion, backed by public sentiment, do not succeed in ending this alliance, public sentiment for expulsion from power of those who persist in such a ruinous policy must, finally, be the plan.

Centralize in Department of Justice

With respect to those who make a business of breaking the law for profit, no plan but rigid, unrelenting prosecution is of any use. The demonstration of an active, positive,

virile public opinion backing enforcement, as already outlined, will be of great help to those charged with the duty. Since, as Benjamin Franklin said in another connection, "A poor system of government with good administration is preferable to a better system with weaker administration," **co-ordination of all the instrumentalities and agencies dealing with the enforcement of the Amendment under the Department of Justice is proposed.**

Many reasons can be urged for this change. As the department ultimately charged with prosecution, **concentration of responsibility** is in line with all modern practice. In addition, **our whole experience has trained us to yield to law officers.** Not the least of these reasons is the fact that lawyers are trained to give no thought to arguments concerning the wisdom, expediency or merit, in themselves, of the laws which they are called upon to administer, and, therefore, we should have less of a temporizing questioning policy in administration than has been sometimes shown. We should have, also, the advantage of the incentive arising from professional pride in work well done.

Along with this co-ordination of agencies should go **acceleration of the trial of cases.** Arousing public opinion favorable to the Amendment would lead, in most states, to renewed activity among the state and municipal officers for fulfilling their concurrent responsibility and **greater use of state courts so that increase in the federal judiciary would, to that extent, not be required.** But if required, **additional judges and ample funds for all additional necessary competent personnel should be quickly granted.** We have put our hands to the plough and the experience of England with speedy trials leaves no ground for argument as to our necessity for improvement in this regard.

A New Society

Concretely, it is proposed that the plans herein outlined shall be carried out by and through **a national society or organization in support of the Amendment,** the members to be enrolled from every element of our diversified popula-

tion without distinction as to race, color, religion or station in the community. The platform or purpose of this organization should be broad enough to enlist the support of all who favor law observance for any and all reasons, whether moral, social, economic or governmental. Membership should involve a personal obligation not only to a strict individual observance of the Amendment, but, also, militant support of all dignified methods evolved by the officers of the organization for aiding law enforcement.

As outlined, the primary method should be education and persuasion in all their many forms, since public opinion and sentiment can only be led and not driven—with force, however, as a last resort. Having enlisted the support of those who now contend that the Amendment was rushed through without due consideration; of those who were always convinced of its wisdom but indifferent in its support; of those selfishly preferring appetite to observance but now awakened to the damage caused by law-breaking—after accomplishing this, **mobilized public sentiment, bringing about or forcing a divorce of politics from bootlegging, will, behind more efficient legal methods and organization, result in making effective that "noble experiment," the 18th Amendment.**

NATIONAL AND LOCAL CIVIC RESEARCH

James W. Everington, Glendale, Cal.
Former Chief of Police, Los Angeles

THIS plan to make the 18th Amendment effective is a combination of Herbert Hoover's "co-operative" plan and the Cleveland "survey" plan. When I tried to put the Cleveland plan into operation, while serving as chief of police of Los Angeles, I found that it was not effective without a "Cleveland Plain Dealer" to publish facts.

Our crime commissions and similar organizations are not as effective as they should be because they lack some of the things which are essential to the success of any movement to make law enforcement effective. To succeed they must have **competent leaders in whom the people have confidence, reliable information** about the conditions to be remedied, and a **means of securing publicity.**

The recognized authorities on sociological problems tell us that the most effective way as yet devised to improve unsatisfactory civic conditions is to form unofficial committees which are representative of our best citizenship, which are equipped to find facts, and which can secure enough publicity for their facts and recommendations to enable them to organize public opinion so thoroughly that constructive, organized, corrective action will follow their efforts. The fact-finding part of their program is easy. Any competent investigator can secure the necessary facts. The difficult thing to do is to organize public opinion when a controlled press will not publish facts. The "Hoover idea" solves this problem.

Our amazing prosperity has created a large class of Americans who are above the "average" citizen of the census bureau statistics and the army intelligence tests in many respects. They are "joiners." They belong to clubs,

societies and associations which may be organized "against politics" and in which the problems of the day are being discussed intelligently. Particularly in the women's clubs. These people now see the **connection between organized crime, Tea Pot Domes, gangsters and crooked politicians, and their own high taxes and the high cost of living,** and recognize the fact that these things which displease them will be with them until they do something themselves to eliminate them.

What Hoover Wants

Herbert Hoover says that he sees in the ultimate, united efforts of our organized groups of society, working together to improve living conditions, the salvation of our form of government. Cleveland "cleaned up" by **putting facts in the hands of the people through an independent paper.** This plan follows the Hoover idea and puts its facts in the hands of the "above the average" citizens through the recognized leaders of the organizations to which they belong, and unites them behind a non-controversial plan to improve living conditions.

When the recognized leaders of the big and worth-while organizing groups of society in any city have personally directed the fact-finding done by their own investigators, and have had a voice in the preparation of the plans formulated to correct the unsatisfactory conditions disclosed by them, they are able to force the corrections of these conditions, because they can put their facts and recommendations in the hands of enough voters, through their own organizations, to enable them to organize public opinion in spite of a controlled press.

Every decent, self-respecting citizen, regardless of race, religious belief or political affiliation, has become convinced, by the oft repeated stories of Tea Pot Domes and similar "big business deals" and political steals that there is **something radically wrong with our law enforcement machinery.** Our "crime wave," with its bosses, gangsters and racketeers has become such a menace that the people are almost too willing to follow anyone who comes along de-

nouncing someone or something and promising relief. Our most intelligent citizens are already organized in effective groups under competent leaders. Your job is to **unite these leaders** behind a Hoover plan to improve living conditions.

Citizens Must Help

The founders of this nation based their scheme of government on the assumption that the people, knowing the facts, would do their part. They failed to provide the political machinery now necessary to take the place of the mass meetings through which they were to keep in touch with the voters. Mass meetings serve the purpose for which they were designed only in small towns. Cleveland, a big city, has found a substitute for mass meetings and **it is as difficult to conceal political crookedness and inefficiency in Cleveland today as it is in the small town in which everybody knows what is going on.**

The history of Cleveland, and the other cities which have been honestly and effectively served by fact-finding bodies, shows that **once such an organization has demonstrated that it can put its facts in the hands of the people, it is seldom necessary, thereafter, to "disturb economic conditions" by resorting to public exposés.** Fear of the consequences of exposure does the trick, once you have convinced the crooks, in and out of office, that you are always on the job and that you will eventually get them if they keep it up.

Your first task in your program to make the 18th Amendment effective should be to **establish a national civic research institute to help every city in the country do for itself what Cleveland has done for herself, since she substituted fact-finding for fault-finding as her method of solving civic problems.** Public confidence is the only foundation upon which you can successfully build, therefore use none of the discredited leaders of yesterday in any of this work.

Business Men's Methods

The business men who have been the "power behind the throne" **have not used the fact-finding methods of business**

in their supervision of the business of government because they don't know what fact-finding has done for the cities which have used it. Their chambers of commerce and trade journals have kept them posted on improvements in business methods and industrial processes and the press has told them about our "startling" inventions and "amazing" discoveries, but when it comes to telling about good work done by public officials or civic organizations, it isn't done. It's nobody's business, and it's not "news."

When the National Crime Commission published its last statistical report which showed that **Cleveland and Baltimore are arresting and convicting a greater percentage of their criminals of certain classes than England is,** the press gave us the story under the headline **"Crime the Safest Business in America"** and featured the fact that over 97% of Buffalo's robbers go free! The fact that Cleveland and Baltimore have found a way to make law enforcement effective was not "news." This state of affairs, coupled with the fact that the reports of crime commissions have found a very limited circulation, is responsible for the fact that very few people know what Cleveland has done. The people see the need for **facts.** They know that an enlightened electorate is honestly served. Tell them what Cleveland has done. Convince them that they can, and should, do the same thing, and then help them do it.

Your 2,000 word limit prevents the inclusion of a detailed program in this paper. I can give only the high lights. You need **a model set of articles of association for local civic research to adopt.** Provide for the formation of **unofficial,** non-partisan, non-sectarian, non-profit, fact-finding bodies with large and **representative** directorates or advisory committees, and small, hand picked executive committees to run things. Put the recognized leaders of all of the big and worth-while organized groups of society in the city on the advisory committee. You will be able to reach the people through these leaders with your facts and recommendations, no matter what the press does, because the people have confidence in them.

Get Facts and Act

Provide in the "articles" for the **employment of competent investigators to do the necessary fact-finding.** Prohibit the publication of anything without the specific authority of the governing body. Don't permit any individual to be the organization or to speak for it. Make it the regular order of business to refer anything to large and carefully selected committees for investigation, study and report, **before** any resolution calling for investigations, recommendations, corrective measures or publicity can be adopted.

Make it the regular order of procedure to put your facts and recommendations in the hands of the regularly constituted authorities, without publicity, and to offer them your assistance in **their** work of correcting the unsatisfactory conditions disclosed. **Use coercive publicity only as a last resort. When you do use it be reasonably sure before you start that you will be able to finish what you start.**

Prohibit the endorsement of political candidates, projects and measures. Limit all political activities of this nature to fact-finding and to the dissemination of the facts found **without recommendations.** Reform organizations which attempt to tell the people how to vote degenerate into "jobs" for someone.

When your field secretaries go to a city to organize it, don't try to sell your plan as something to make the 18th Amendment effective. **Sell it as a plan to make law-enforcement effective and to increase the efficiency of the business of government. Sell it as lower taxes, lower living costs and better living conditions.**

Don't try to sell it on the strength of general conditions. Every city has its Tea Pot Domes which have been exposed by the press but about which the people know but little of the truth. Be prepared to tell those whose co-operation you need enough of the facts about some mess in their own city to interest and to **peeve** them. **Show them the need for an honest fact-finding body of their own.** Tell them what Cleveland did and how she did it by applying the

fact-finding methods of big business to the business of government. **Sell the idea "What Cleveland has done, we can do."**

"Something Everybody Wants"

You will encounter less sales resistance if you sell your plan to the recognized, natural leaders in civic affairs who are known to be honest and able, **as individuals.** Don't try to sell it to organizations at the outset. Frequently "past" officers or committeemen are better organizers and leaders than incumbents. Get the right leaders. The organizations will follow them.

I sold this plan to a small group of Los Angeles business men so effectively in a forty minute talk that they then and there subscribed $10,000 to be used in employing investigators and agreed to raise as much more as was necessary. **It sells because it is economically sound.** Backing it is an investment in lower taxes, lower living costs and better living conditions. It meets Henry Ford's requirement of being something that everybody wants. I have sold it to audiences as the Anti-Saloon League sells its program, and collected double the amount per capita that I averaged while speaking for the League.

Avoid controversial issues. When the messes which everyone wants cleaned up have been cleaned up, the controversial messes will have disappeared. If newly formed organizations cannot safely ignore controversial issues, limit their activities in those issues to fact-finding. Permit, or induce, other civic organizations to initiate corrective measures in such cases. **Move slowly until you have established a reputation for reliability.**

When your fact-finding has made it possible for honest men of ability to retain both their positions and their self respect while doing their duty as law enforcement officers in any city, you will have done much towards making law enforcement effective in that city, and when you have done this you will have made the 18th Amendment effective.

A SCIENTIFIC STUDY

Irving Fisher and Associates, New Haven and New York

THE most practicable plan to make the 18th Amendment effective **should be fitted, as nearly as possible, to the policy and methods of the incoming President.** That policy, as Mr. Hoover has declared it, is **primarily opposed to coercion, bureaucratic extensions and centralization.** Instead, it is a policy of

(1) **Informing the nation,** scientifically and from unbiased sources, of defects and abuses in the application of the 18th Amendment, and

(2) **Invoking the power of informed leadership** to remedy the abuses and through organized, voluntary effort to secure general observance of the law.

In his administrative work the president-elect has invariably **offered co-operation to representative groups** of men and women in states and local communities.

By employing the principles of decentralized organization, **leaving the execution of details to local autonomy, and of co-operation through volunteer committees of leading citizens,** Mr. Hoover succeeded largely in regulating the food supply of scores of millions of people in Europe during and after the war; in forming and conducting the United States food administration and in reorganizing the federal Department of Commerce.

He has announced these principles as the heart of his policy during the next four years.

It is inherently improbable, therefore, that any plan to make the Amendment effective will be practicable if it fails to embody the principles whereby Mr. Hoover habitually **centralizes ideas and decentralizes their execution** through organized leadership among states and local communities.

A President's Conference

Accordingly, the present plan proposes the establishment of **a president's conference on effectuating the 18th Amendment,** composed of a standing committee and subordinate committees of the type of President Harding's conference on unemployment, of which Mr. Hoover was appointed chairman.

The proposed conference would organize (I) **a survey of defects and abuses in applying the 18th Amendment,** and (II) **a concerted appeal for leadership,** through all appropriate agencies of the nation, **in correction of abuses and in general observance of the Amendment.**

Personnel of Conference and Survey

For the proposed survey, the conference should create a staff in large part from such organizations as the National Bureau of Economic Research, the Russell Sage Foundation, American Engineering Council and government departments.

Committees of the conference and collaborating editors **under legislative, administrative and judicial headings,** should be drawn from bar associations and the government; those **under heads of social derelictions and observance** from universities, educational associations, faculties of medical schools and hospitals, federations of women's clubs, social settlements, religious and ethical bodies; and those **under business and industrial headings** from business men's associations and foundations for economic research.

Organization to effectuate the 18th Amendment according to this principle should **win co-operation of certain leaders in business, education and law who oppose bureaucratic force in administering the Amendment.**

Appointment of such leaders to conference committees would tend to harmonize all leadership, including that of the press, motion picture chains and radio networks, in support of the expressed will of the people and in aid of their elected executives.

If by such co-operation the habit of abstinence can be

inculcated among the rank and file of the people, the spirit of the Amendment will be subserved, and legislative, executive and judicial problems under it will be vastly simplified.

Methods of Proposed Survey

Mr. Hoover defines national prohibition under the Amendment as a "great social and economic experiment"; he urges, as the first step toward its constructive working out, an **"organized, searching investigation of facts and causes" of well-recognized abuses.**

His methods in the conduct of social and economic investigations, successfully applied in cases enumerated in his speech at St. Louis on November 2, 1928, are not those of political committee hearings; they are **methods of engineering management.**

The methods required for the proposed Survey are those described by Edward Eyre Hunt, of the Department of Commerce, in the paper and accompanying discussion entitled "Notes on Economic and Social Surveys," Taylor Society Bulletin, February, 1928.

Inclusive of raising necessary funds and organizing personnel, they are of the kind embodied in the current "Survey of Recent Economic Changes in the United States" undertaken by the National Bureau of Economic Research, by request of Mr. Hoover, as continuing head of President Harding's unemployment conference.

Time and Scope of Proposed Survey

The survey would be designed to **bring into sharp focus knowledge about defects and abuses in application of the Amendment**; to appraise them, and with all reasonable expedition to **present the findings as a basis for public and private policy-making.** The survey should be arranged according to a time schedule as recommended by the conference.

In the interest of dispatch, such a survey cannot undertake, although it will suggest, detailed new investigations and research, **which should be prolonged under a continuing organization.** But this should not be allowed to postpone

preparation of the report on the basis of existing knowledge, its publication and action thereon with all convenient speed.

Main Subdivisions of Proposed Survey

Preliminary survey of conditions, 1900-1929: state prohibition, local option, government dispensaries (South Carolina), and licensed saloon **1900-1916**; war-time restrictions of liquor traffic, **1917-1919**; 18th Amendment and concurrent state laws, **1920-1929.** Contrast should be drawn between courses adopted toward liquor traffic in the United States and other countries, especially Canada.

1. Legislative, Administrative, Judicial Defects

(a) **Legislative. Defects in Volstead Act** as to:

Minimum and maximum penalties. Arrests, search and seizure; legal rights to seized liquors. "Double jeopardy." Injunction and abatement. Tenure and removal of enforcement officers. Control of industrial alcohol, distilleries and warehouses. Permits to manufacture articles containing alcohol; forfeiture. Use of United States marshals and their deputies as enforcement officers. Courts of inquiry respecting violations of law. Summoning of witnesses. Contempt. Evidence relating to sales, manufacture, transportation, possession of intoxicating liquor; evidence of instruments or materials for making it. Permits for non-alcoholic malt beverages. Alcoholic liquors "fit for use" as a beverage.

Inadequacy of appropriations and salary schedules, state and federal. Comparison of Volstead Act with body of federal statutes formerly controlling liquor manufacture, possession, transportation and sale, made inoperative by Volstead Act under Section 9, Title III. Regulations "in addition to existing law" under executive discretion of Treasury Department. Relation of prohibition unit to Treasury Department; practicability of making unit an independent bureau or placing it under the Department of Justice.

Volstead and State Acts

Comparison of Volstead Act and existing state enforcement laws. Consequences of repeal or omission to enact state codes in New York, Maryland, Nevada, Montana; lack of sufficient judges, prosecutors, enforcement officials and agents. Practicability of adopting each state code as federal law in lieu of the Volstead Act within state bounds, leaving the Volstead Act to apply only within states and possessions lacking enforcement codes. Possibility of federal government co-operating rather than competing with states, and assisting them financially, with main reliance on administrative machinery of local government.

Treaties with foreign nations for co-operation; infringement of 12-mile limit.

(b) **Administrative defects.** Corruption, crimes of prohibition agents. Wire-tapping. "Under-cover" agents. Agents provocateurs. Civil service regulations; examinations. Personal selection, training, experience among agents and officials. Co-operation of Department of Justice with prohibition unit; instructing, training agents. Morale contrasted with that of Secret Service. Concentrating forces in wet districts. Co-operation with local officials.

(c) **Judicial.** Inadequate courts, state, federal, handling cases. Jury trials. Lack of verbatim reports of federal grand juries. Abuses of judicial discretion: inadequate penalties; over-emphasis on technicalities; abuse or insufficient use of injunction clauses. Delays. Insufficient bail bonds. Connivance at perjury and conspiracy by lawyers for defense; tampering with government witnesses. Lack of rules governing disbarment proceedings for offenses against federal courts. Election, appointment, impeachment of judges, state and federal.

2. Social Derelictions of Habit and Observance; Health; Education

Attitude of ethical and religious leaders and organizations, social settlements, men's and women's clubs and organizations toward 18th Amendment; of associations

against Amendment; of physicians toward restricting prescriptions.

Drinking in colleges, high schools, at private tables, social gatherings. Social clubs. Speakeasies. Bootlegging, home brewing, home distilling. Smuggling. Illegal diversions: sacramental wines, industrial and medicinal alcohol.

Public education in light of scientific findings regarding effects of alcohol in (a) wines, (b) malt and (c) spirituous beverages. Tests of efficiency among drinkers and abstainers in athletic sports and industrial occupations. Accidents from (a) moderate, (b) heavy drinking by motor-car drivers. **Effects of moderate drinking in a high-powered age. Findings of insurance companies,** other agencies and individuals on life expectancy of (a) abstainers, (b) moderate drinkers, (c) heavy drinkers.

"Bootleg" beverages; toxicity. Diseases and deaths of men, women and workers as affected by alcoholism (a) before and (b) after adoption of Amendment; (c) compared with other countries. Poverty, dependency, crime, industrial accidents.

3. Deficiencies of Law Observance in Business and Economic Practice as to:

Contract relation between employers and employees regarding abstinence. Concerns requiring abstinence: transportation, public utilities, manufacturing, mining industries, shops, department and chain stores. Rules governing personal habits of employers and managers.

Moral, material support of Amendment by organizations specially benefiting by abolition of liquor traffic: mining, transportation, motor-car, radio, motion picture, electric appliances, soft drinks, food and dairy products, confectionery, ice cream industries, chain and department stores, installment finance companies.

Labor unions, company and mutual benefit associations (a) requiring abstinence, (b) supporting Amendment.

Brewers and distillers: attitude toward companies requiring abstinence, blacklisting. Salvaging of plants of brewers

and distillers, and of crops formerly devoted to producing alcoholic beverages.

Conclusion. **Chief elements of problem under above headings appraised and interrelated.**

Concerted Appeal for Law Observance and Remedy of Abuses

The conference recommendations on the survey, as approved, should be carried out by the central committee, its subcommittees, and co-ordinate committees working through all appropriate existing agencies throughout the states and their subdivisions.

For example, the legislative, executive and judicial committees should bring the conference recommendations before their respective municipal and state legislatures and Congress for appropriate action; and before municipal, state and federal administrations and the local and federal judiciary. They should co-operate with commercial, industrial, scientific, educational, moral, and religious bodies in organizing public sentiment favorable to needed measures.

Committees on social derelictions, health and education should employ conference funds in behalf of law observance and general abstinence from intoxicants, by means of newspaper and magazine advertisements, posters, motion pictures, speeches and communications to the press; arranging co-operative meetings with editors and publishers; and by addresses of leaders and experts transmitted over radio networks and by "sound pictures."

Educational committees should urge systematic scientific instruction regarding physiological and psychological effects of alcohol in public and private schools and colleges.

Committees of women's social organizations should reach their memberships by thorough canvasses for pledges or agreements by social leaders (not necessarily personal abtinence pledges) to discontinue serving intoxicants at private tables and social gatherings.

The committees of business and industrial associations, co-operating with labor committees, should urge **universal use of employment contracts requiring abstinence by em-**

ployers and employees alike; and, through employees' mutual benefit associations, set forth the **advantages of increased health and lower insurance rates among abstinent workers.**

Emulate War-time Education

Such activities will benefit from the experience of emergency organizations during the war—especially of the Liberty Loan campaigns and popular canvasses for conserving foodstuffs and materials needed at the front, which through public appeals brought about rapid changes in the habits of the people.

Conditions are ripe for such a movement, in which the enthusiasm of organizations of men and women throughout the country **awaits the kindling of concerted action and leadership.**

In leading this movement, the President will have the aid of a corps of men and women who, under him, became veterans in executing plans that have affected the voluntary action of entire peoples, including our own people.

The carrying out of the proposed plan would furnish another and signal instance in which the co-operation of the nation's leadership will have "reinforced our individualism" (to use once more the words of Mr. Hoover) "by reducing and not increasing government interference in business and the life of our citizens"; co-operation that assists "in the cure of abuses by the voluntary establishment of a higher code of ethics and a stricter standard in the conduct of business."

PUNISH OATH-BREAKING OFFICIALS

Louis Fitz Henry, Judge, United States District Court
Bloomington, Illinois

ANY intelligent "plan" must take into consideration the substantial impediments in the enforcement of the 18th Amendment. There is no question of the power of the federal government to enforce any criminal law which Congress may enact. The chief trouble with prohibition enforcement has been the almost total lack of co-operation on the part of the law officers of the several states, and some little political considerations which occasionally creep into branches of the federal service.

I submit the following:

The Plan

Article VI, §1, Par. 3, of the Constitution of the United States is as follows:

> "These senators and representatives (of the United States) before mentioned and the members of the several state legislatures, and all executive and judicial officers, both of the United States and the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States."

The 18th Amendment to the Constitution is as much a part of the Constitution as the original Article VI.

Until now (after 141 years) the mere sanction of the official oath has been regarded as sufficient. No act to enforce this provision of the Constitution has ever been passed by the Congress of the United States.

Procure the enactment by Congress of a simple statute making it a felony for a public officer to attempt to take office without taking the constitutional oath of office, or to

take the oath of office with the mental reservation, agreement or purpose of evasion, or, having taken the oath of office in good faith, to afterwards disregard it through misfeasance, malfeasance or confederation, with the corrupt purpose of nullifying any provision of the Constitution.

Ample punishment should be provided for any public officer, either federal or state, who wilfully violates the provisions of this enforcement statute, by a fine, or imprisonment, or both; and, the court should be authorized, as a part of the judgment, to remove a convicted defendant from office.

The act might provide that any person convicted of violating the act shall be disqualified from afterward holding any office for which the taking of this constitutional oath is required.

Why Enforcement Is Weak

The general failure of local state officers to seriously undertake to enforce local liquor laws is the chief cause of weakness in the 18th Amendment and national prohibition. It is claimed that too many state officers view national prohibition from the same psychological viewpoint that they formerly observed state prohibition or regulation.

The proposed plan would not only permit, but would enable the federal government, through its courts, to compel the states to do their own enforcing.

Since the adoption of the 18th Amendment, almost every state in the union has exercised the power granted to it by Sec. 2 to enact an enforcement statute, which, if enforced, would be fully as effective as the Volstead Act, known as the National Prohibition Law.

In states where, prior to the adoption of the 18th Amendment, there had been state-wide prohibition, or, in counties in wet states which were dry under local option, there has been little trouble about the enforcement of national prohibition.

The substantial difficulties come from those localities where the local officers were very largely controlled by the liquor element, or, where the local officers, every one of whom is required to take an oath to be bound by the Consti-

tution of the United States, **openly and notoriously say they don't believe in the 18th Amendment and don't propose to enforce the state law.**

In a recent city election, the candidate for mayor was elected who had **previously announced in his platform that he would run liquor "snoopers" out of the municipality.**

In all of the agitation against prohibition, we hear none for the repeal of the state prohibition enforcement statutes. The reason for this is that **there are very few serious efforts on the part of the states and local officers to enforce state prohibition.** There is undoubtedly a good reason for this situation.

The federal government now has no power to compel obedience upon the part of a state officer to the pledge contained in his oath of office.

In the very nature of our dual form of government, **the federal government cannot perform the local police duty of the several states without duplicating the machinery** which already exists in every state for that purpose.

Compel State and Local Action

The enactment of the proposed statute would **practically compel the states and the state officers to act with reference to local enforcement** of the 18th Amendment and would **release the federal government and its machinery for concentration upon smuggling, manufacturing, revenue, major conspiracies, and the regulation of intoxicating liquor in interstate and foreign commerce.**

The "gang wars" of which we read so much in the press, are **very largely the result of bootleggers endeavoring to enforce their own conceived rights in territory given them by agreement with local officers or by acquiescence on the part of local officers in the power of certain criminals in certain districts.**

In my personal experience I have been **amazed at the number of local state officers who are of the honest conviction that national prohibition is purely a federal affair in which the state is not concerned.** If they had ever taken

the constitutional oath of office it was only a matter of form and made no impression upon them.

Under the present state of the law, **the federal government cannot prosecute a state officer unless it can be shown he entered into a conspiracy** to violate the Volstead Act and did some affirmative act pursuant to the purpose of the conspiracy. Where legitimate conspiracy cases involving local officers have been prosecuted it has very generally improved prohibition enforcement in the places where the officers lived.

No public officer entering upon the performance of his duties can object to such a statute as proposed, if he honestly intends to do his duty according to the best of his ability. However, it might be otherwise among those who did not intend to do so.

Having taken the oath, a public officer would be slow to conclude not to be bound by it. If such a statute were enacted by Congress, **a few prosecutions against violators in the federal courts would immediately put an end to sham enforcement,** would be a long step towards making life, liberty and property safe in the United States, and **would at once restore respect for law.**

I do not presume, nor does your offer require it, to hazard a guess as to how this "plan" might appeal to the legislative mind of Congress. And, yet, every member of Congress has taken an oath to be bound by the Constitution and we have a right to presume that a bill embodying such a proposed law would receive honest, sincere and appropriate consideration at the hands of every member.

State Laws Part of 18th Amendment

In considering the present situation and the "plan" herein proposed, it must be borne in mind that when the states ratified the 18th Amendment, they thereby yielded all of their sovereignty upon the subject except to enforce the provisions of Sec. 1 of the 18th Amendment concurrently with the federal government. Every law now standing upon the statute books of the several states which has for its pur-

pose the enforcement of prohibition, whether or not enacted after the date of ratification of the 18th Amendment, is now deemed, and it is so held, to be an enforcement act to enforce the provisions of the 18th Amendment.

You ask only for a "plan." Therefore, I have not gone into detail so far as to write a bill embodying the statute suggested. However, that could very easily be done, and, of course, would be done, upon request.

The enactment of such a statute as is suggested, and its reasonable enforcement, would make the 18th Amendment effective, so far as it is humanly possible.

GIVE ENFORCEMENT TO DEPARTMENT OF JUSTICE

William J. Flynn, Deceased
Former Chief, U. S. Secret Service

TO bring about a better enforcement of the Volstead Act, I suggest the following:

First: Since the legal manufacture and dispensing of beverage alcohol is **more or less a pathological matter,** I suggest that supervision of the same be taken from the Prohibition Bureau and put under the United States Bureau of Health.

Second: Disband the present enforcement unit of the Prohibition Bureau and **transfer the duties of the same to the Bureau of Investigation of the United States Department of Justice.** This will eliminate a great deal of graft and bring about better efficiency.

Third: **Empower United States Commissioners to deal with and dispose of minor infractions** of the Volstead Act. This will, to a great extent, **prevent the clogging of federal courts** with prohibition cases.

In addition, this proposition will bring about a saving of several million dollars to the government in the enforcement of the prohibition laws.

"PAY AS IT GOES" ENFORCEMENT

Arthur R. Franklin, Chicago
Special Agent, Bureau of Prohibition

THE 18th Amendment to the Constitution and the National Prohibition Act, its enforcement measure, became laws of our land by vote of the people, as expressed through their duly elected representatives.

Action contrary to this law is a crime and brands the offender as a criminal. There is no distinction between a criminal who violates the prohibition laws and a criminal who violates some other law. Both must be treated the same and corrective measures applied. A criminal who violates one law continually has no respect for that law or for any other law.

Crime is a career, lawless, but nevertheless a career, and the number of persons engaged in crime and the extent of their operations is dependent entirely on the steps society takes to protect itself and demonstrate to the criminal that his acts will not be suffered, but will be certainly punished.

The most profitable of all crimes are violations of the National Prohibition Act.

Why Prohibition Law is Violated

The most important reasons for violation of the law by those engaged in the traffic commercially and for the general indifference on the part of otherwise law-abiding citizens are given in the order of their importance:

1. **Failure** of the National Prohibition Act **to provide an adequate punishment** for violations of the law.
2. **Long delays** in administration of justice.
3. **Failure to exact taxes from violators based on illicit profits.**

4. **False and malicious propaganda** circulated by enemies of prohibition misrepresenting methods of enforcement and endeavoring to bring the agents into disrepute.
5. **Corruption of public officials.**
6. **Failure of local and state authorities** to enforce the National Prohibition Act and lack of co-operation with federal authorities.
7. **Lack of personal observance** on part of otherwise law-abiding citizens.
8. **Lack of bureau of identification** under the Bureau of Prohibition.
9. **Lack of adequate training of agents** prior to entering service.
10. **Lack of publication of details of enforcement.**
11. **Failure to deport alien criminals.**

11 Remedies Offered

There are offered eleven remedies for the above defects in the enforcement of the National Prohibition Act and it is fully believed that the adoption of these plans will curb the liquor traffic and swing the opinions of a multitude of citizens to favoring vigorous and strict enforcement of the law.

1. By appropriate legislation revise the schedule of punishments for violations of the law, make prison sentences mandatory and include two new offenses of the capital class. The following schedule is submitted with the belief that the punishment fits the crime.

Offenses: Manufacture, sale, transportation, importation, exportation **or possession** of intoxicating liquors for beverage purposes, **containing a poison, that causes the death of a human being**—first offense, 10 years to life; second and third, death sentence. Same except containing a poison capable of producing death or injury—first offense, 5 years to life; second and third, life imprisonment. **Conspiracy** to violate the National Prohibition Act—first offense, 2 to 5 years **and** $5,000 to $25,000 fine; second, 4 to 10 years **and** $10,000 to $50,000 fine; third, 5 to 20 years **and** $15,000 to $100,000 fine.

Inasmuch as the above offenses can take place only through a violation of the National Prohibition Act, it seems that the federal courts should have jurisdiction and prosecute traffickers in poison liquors.

The fines above may seem large to the layman but a bootlegger convicted of this charge should be able to pay it. The courts will naturally take into consideration the extent of the traffic and assess fines accordingly.

Conspiracy is the most serious of all crimes under the Act at present and should be dealt with severely. A simple misdemeanor usually has no special significance but a conspiracy, with its attendant corruption and bribery of public officials, disregard and violation of state laws, gang wars and occasional murders, represents a grave menace to the community where it exists.

One of the most important factors in asking for a prison sentence for each conviction is to **offset the present practice among the bootleg fraternity of paying an underling to do a small jail sentence for the large operator.** Under the revised schedule of punishments a great number of the hirelings will be induced to name the "higher-ups" and thus pave the way to their conviction.

Hundreds of conspiracy and bribery cases have clearly demonstrated that **a bootlegger will spend nearly his entire fortune to avoid serving time in prison.** Prison sentences are the most dreaded of all punishments.

2. Imposition of penalties on the above schedule will cause a substantial reduction in volume of illicit traffic immediately, **reduce the number of arrests by approximately 70% and thus clear the court dockets and permit speedier administration of justice.** It can not be denied that mandatory prison sentences will place a serious aspect on violations of the prohibition laws.

Tax All Liquor Seized

3. **Impose a suitable tax upon all intoxicating liquor seized in the course of raids and upon each still and brewery confiscated. A fair tax would be about $5 per bottle**

for liquor, or if in containers of more than one quart capacity, $5 per quart. Demand payment of tax immediately upon seizure and require bond in default of immediate payment. Quashing of search or dismissal or criminal prosecution would not be a bar to collection of taxes imposed. **A fair tax for a distillery would be about $1 per day per gallon capacity of still seized,** for each day of operation. Unless proof to the contrary is shown, the still would have been in operation for exactly one year. Under this plan a still of 50 gallons capacity would be taxed $50 per day.

An illicit brewery should be taxed in the same manner.

When it is considered that a still operator with a still of this description would make about $100 per day clear profit it does not seem unreasonable to demand a tax of about 50% of these illicit profits. Using a plan like this, the law-breaker pays the cost of law enforcement and that is quite desirable.

4. Insidious propaganda cannot be fought by legislation. **The greatest asset enforcement of any sort can have is the good will of the people. This can be gained only by vigorous enforcement and honest enforcement.** The super-critics of prohibition enforcement can be best placed in the background by carrying out this plan and ignoring their unmerited criticism.

5. It takes money and plenty of it to corrupt public officials. An official that becomes a paid employee of a liquor racketeer is easily corrupted and would be corrupted just as quickly by any other type of criminal. Exposure of corrupt officials by the federal agents will result in a general house cleaning at the next election and a general clean-up in local politics. Taxing and fining bootleggers heavily will make their venture unprofitable. **Without plenty of money the bootlegger cannot bribe and he cannot operate without bribery.**

Prosecute Dishonest Officials

6. The greatest reason for the non-enforcement of the National Prohibition Act by the local and state authorities is the extent of graft and corruption existing in these agen-

cies. Enforcement and graft do not go hand in hand, consequently enforcement always loses. Scores of cases have been uncovered showing protection by local authorities and **some police have gone so far as to convoy trucks laden with liquor while wearing their uniforms.** Prosecution and elimination of dishonest officials will improve this situation greatly and will bring local enforcement at least to the point where these agencies will co-operate with the federal authorities.

7. The large majority of citizens will observe cheerfully a beneficial law if it is enforced seriously and properly. **The spirit of law enforcement or law disregard is very contagious. There is nothing more disheartening to those enforcing the law, or those who are only to obey it, than to see a habitual offender haled into court and assessed a ridiculously low fine and allowed to depart to ply his trade again.** This is the one feature that has caused a general breakdown in the morale of the public and is directly responsible for the large number of violators that we have today.

Finger-print Violators

8. Appropriate the funds for and install immediately a **bureau of identification in the Bureau of Prohibition.** Fingerprint and photograph every violator. File one copy in the main bureau of identification in Washington and another copy in a branch bureau of identification in the district where the violation occurs. Thus a second offender will be identified soon after arrest and the practice of punishing three and four time offenders as first offenders will be abolished.

9. Commence a college in Washington, D. C., to be known as the **"Crime College,"** the purpose of this being to **provide a complete training for all agents of the government.** By setting a higher moral and intellectual entrance standard and giving the proper course, a high standard in all federal services will be set and maintained. Many temporary classes and schools will thus be abolished and all government agents will be well trained in federal

laws they are enforcing and also along general police lines. Also this would greatly improve the morale of the agents as they would feel that they were embarked on a life work.

10. **Keep the public informed of the progress of enforcement.** Publish raids, seizures and arrests the same as police items. Co-operate with the newspapers. Much of the unfavorable publicity has been due to the newspapers being left entirely in the dark when the case involved would not have suffered by the publication of some of the details. The press has feelings as well as the prohibition service.

11. **Deport the alien criminals.** By appropriate legislation make unlawful entrance to the United States a crime; make deportation of alien criminals mandatory. Revoke naturalization on first felony and thus pave the way to deportation of a naturalized foreigner on second felony. This must apply to state as well as federal violations. It is the one sure step that can be taken to rid this country of a large, foreign, criminal element.

Conclusion

At no other time in history has the federal prohibition service reached such a high standard of integrity and efficiency as it holds today. **The service has clearly demonstrated that it can detect and convict offenders of the law.** It is only necessary to adopt these plans, drawing the net tighter around the violator by fitting the punishment to the crime and making the law-breaker pay the cost of law enforcement.

EVERY CITIZEN AN ENFORCER

L. T. Frazier, Justice of the Peace
Police Court, Bisbee, Arizona

MAKE every citizen, either male or female, who has reached the age of 21 years, and all citizens who shall reach the age of 21 years after the passage of this bill, **a non-commissioned, non-salaried prohibition enforcement officer** of the United States of America and **provide a fee of $10 for each arrest resulting in a conviction,** either by testimony submitted before a federal court or by a plea of guilty, and a mileage fee of 25 cents per mile for the total miles actually traveled after making the arrest to make disposition of the defendant.

Let Congress appropriate enough money to print 50,000,000 copies of the 18th Amendment and 50,000,000 copies of this proposed provision for the purpose of distribution, one to every citizen who is affected by it, showing each citizen's authority for enforcing the 18th Amendment.

Also provide:

That the citizen prohibition enforcement officer making the arrest shall make claim for mileage at the rate of 25 cents per mile for the miles actually traveled with the defendant to the nearest office of a United States commissioner, or a commissioned prohibition enforcement officer, where the citizen officer shall then give up custody of the defendant, and execute a complaint for violation of the 18th Amendment.

That the citizen prohibition enforcement officer's claim for arrest fee and mileage fee must be filed with and approved by the federal court before which the defendant is arraigned or tried.

MAKE ALCOHOLIC MEDICINES EASY TO GET

Judge John J. Gering
Turner County Court, Marion, South Dakota

THE task of enforcing and making effective the 18th Amendment to the Constitution of the United States is not an impossible one if its contents are interpreted in the light in which it was understood by its supporters at the time of its adoption.

From the language of the Amendment it is clear and beyond successful argument that the authors of the Amendment intended it to mean that intoxicating liquors were to be prohibited from use for **beverage purposes only.** Beverage, as defined by Webster's dictionary, and as used in its widest and practical sense, means the use of intoxicants for the mere sake of drinking and for no useful or beneficent purpose. It follows therefore that the use of intoxicants for purposes other than beverage is permissible and Constitutional as well.

So to make the 18th Amendment effective let us find a remedy that will call for its enforcement in accordance with its spirit and in accordance with the meaning that was given to it at the time of its adoption.

Let us first consider **why the 18th Amendment was adopted** and made a part of the constitutional law of the land. The answer is simple and obvious. It was because there was a problem before the American people. The problem was that intoxicating liquors were too easily available and therefore came to be used excessively to the injury of the moral, social and economic welfare of the people of this country. But it is a clear case to claim that this excessive use was always limited to only a small number of the total population of the land.

In other words **not even a large minority of the American people were using intoxicants for beverage purposes.** To even intimate that the entire American people used intoxicants for beverage purposes is a fallacy. But suffice it to say that a sufficiently large number of Americans came to use intoxicants for beverage purposes and to such an extent that it became an evil and harmful to the drinker himself and his family and a disadvantage to the country as a whole.

Let us also consider **who favored and supported the 18th Amendment** so that it was eventually ratified by 46 of the 48 states. Herein lies one of the most potent and important factors in the present difficulty of enforcing the 18th Amendment.

The 18th Amendment never could or would have been adopted by the mere support of the actual membership of the prohibition promotion agencies and organizations, such as the Prohibition Party, the Anti-Saloon League and the Woman's Christian Temperance Union. Their total vote at presidential elections was never of any magnitude. The total abstainers alone could never have carried this fight to victory. **But it was the large number of sensible, law-abiding and responsible people, who, on the recommendation of their family physicians, kept alcoholic drinks for use as a medicine,** but who are unalterably opposed to the promiscuous sale in licensed places of intoxicants for beverage purposes.

Without the support of this class of people the 18th Amendment would never have been possible, and without their good will and sympathetic interest its enforcement is now well-nigh impossible.

Pre-Amendment Promises

In the campaign for the adoption of such an amendment to the constitutions of some of the states the promoters of such campaigns made it clear to the mass of the people that provision would be made so that the use of alcoholic drinks for medical purposes would not be prohibited but would be authorized under carefully guarded restrictions.

It was on the strength of such promises as this that their campaigns were successful.

To this day some of the most renowned medical authorities recognize the value and necessity of alcohol as medicine, but condemn its abuse as a beverage.

Then still another question to consider is who is to make the 18th Amendment effective by assisting in its enforcement? Some will immediately cry out that the enforcement officers must look after that. But the officers alone cannot do it effectively. **The support must come from the masses of the people who are in sympathy with it and who are not handicapped as a result of the Amendment.** Other matters will be considered in the question of how to enforce the 18th Amendment but the first one and the one of prime importance is the task of keeping the faith with the masses.

The second section of the Amendment provides that Congress shall have concurrent power with the different states to enforce this article by appropriate legislation. The first section has already been referred to as providing that the Amendment shall prohibit the manufacture, transportation and sale of intoxicants for beverage purposes. Both Congress and the legislatures of the several states could therefore, consistently and without the least danger of unconstitutionality, pass legislation regulating the manufacture, transportation and sale of alcoholic drinks for medical purposes, scientific purposes and sacramental purposes only.

The writer's views are based on his experience as a practising lawyer and court judge. This has been his observation: The great majority of people who condemn the use of intoxicants for beverage purposes believe that they should be authorized to buy for medical purposes, under severe restrictions, but without being required to go through too much red tape, a good quality of pure goods and at a reasonable price.

Government Manufacture and Sale

This theory always raises a storm of protest from the total abstainer, but we must view the situation in the light of existing facts and circumstances and not as mere idealists.

It is not a question of what we would like to have but of the best that we can have. **It is far better to have a law that can be enforced even if not as strict as we would like it than a law too strict and impossible of effective enforcement.** Laws can be made stronger gradually as people become educated to them.

Since such a large number of total abstainers and prohibition enthusiasts always consider it dangerous to try legislation that will permit the sale of alcoholic liquors even for medical purposes with less restriction and red tape than the present system, very few concrete and workable plans have ever been submitted. So here is a concrete proposition that could be made the basis of legislation to that end:

The federal government could own the distillery or else have alcohol made in a private distillery under government license, control and supervision. The product would be absolutely pure and free from any adulteration. This distillery would be limited to the manufacture or distillation of alcohol only and the mixing it into brandy of such strength as the medical profession will pronounce as containing the most medical value. No beer or light wines would be made or handled under this plan, unless very good reason were given by the medical profession.

This ready mixed brandy would then be for sale in any city, village or town in the country, ordered direct from the government distillery.

Dispensaries for Medical Alcohol

The place of sale would be any business house, such as store, drug store or other place of business. The merchant handling it must be licensed by federal authority and put under a heavy bond.

No more than one quart in any case to be sold to a customer at a time. The customer must register by signing his own name in a register acknowledging receipt of the amount purchased and agreeing to be responsible for its use and disposition.

The price for the brandy to be reasonable and within reach of a poor man.

The bottle cannot be opened or used in a public place.

Provide a heavy penalty for the abuse of each purchase.

The local dealer cannot, under any circumstances sell to a stranger unless identified by a local responsible person, who must sign himself on the register as responsible for what happens if the purchase is misused by the stranger.

The local dealer cannot sell to a habitual drunkard unless at the instance of a physician or other responsible person.

The local dealer's register of sale to be open for any inspection the federal or state government may provide for.

No sales to be made to minors, with special reference to students.

Retain or increase all present penalties for appearing drunk in public places.

Take away the right to drive a motor vehicle for at least one year from any one found driving an automobile while intoxicated.

What would be the effect of legislation to enable the purchase of alcoholic drinks under circumstances such as enumerated above?

1. It would **take away perhaps 90 per cent of the business of the present bootlegger.** Ninety per cent of the law-abiding people who are now forced to violate the letter of the law in order to buy alcoholic drinks for medical purposes will not only desert but condemn the bootlegger the minute they can buy it legally. The bootlegger only thrives by being able to sell the substantial man who can pay him and will not easily report him.

2. **It would bring thousands or millions of people into sympathy with the 18th Amendment** who believe in the medical value of alcoholic drink but who now forego it for the reason that they will not even violate the letter of the same. They will lend their aid to the enforcement officer where they are now indifferent, or even dissatisfied with its provisions.

One will say that citizens who will buy intoxicants from a bootlegger are law-breakers and do not deserve consideration, but the fact remains that **nearly every one who does**

so feels that it is not a violation of the spirit of the Amendment but is only due to legislation not in accordance with the broad meaning of the 18th Amendment itself.

Continuous Campaign of Education

In addition to the foregoing it is absolutely necessary to carry on a campaign of education, discouraging and condemning the use of intoxicants for beverage purposes. Mr. W. C. Durant is absolutely right in his assertion that business leaders are at least partly responsible for the present crime wave and flagrant violations of the 18th Amendment. If every leader of big business would speak out in plain and certain language, as Mr. Durant does, his disapproval of the evil would have a far reaching effect. Then laborers would know what is expected of them if they enter into the employ of such big business.

Candidates for office, from local constable to the presidency of the United States, must show interest, sympathy and a determination to enforce this law.

To quote and capitalize only flagrant violations of the law and not the many successful efforts made to enforce it and to bring before the people some of its helpful effects, is encouragement for further violations. Prohibition even now is not a total failure. Were it not for the present prohibition laws in this age of motor vehicle and machinery more lives than ever would be sacrificed on the highways and in the factory.

The schools, colleges and universities must take a pronounced stand against this evil. No boy or girl should be graduated from any high school, college or university, in this land who uses intoxicants for beverage purposes. This should be made a standard of requirement in every institution and held to without deviation. It must be made known when students first enter an institution of learning.

Make the law so that the majority of the citizens will not only be in sympathy with it in a passive way, but will become a part of the enforcement agencies with enthusiasm and

with assurance that they are supported by the best, most substantial and most responsible people of the country.

Prohibition and the 18th Amendment are still in the experimental stage and any remedy now proposed can always be amended to apply to changing conditions and the law can be made stronger and stricter gradually as the need may be and as effective enforcement of same will warrant.

The total abstainer and prohibition enthusiast are now doing their full part to make the 18th Amendment effective. The miserable drunkard and the contemptible, law-defying bootlegger and his associates cannot be expected to help. **To get results the large class and mass of people who still cling to the medical element in alcoholic liquor must be won** and the writer believes the most speedy and effective way to win them is to legislate in line with his policy herein enunciated.

MAKE ALL VIOLATIONS FELONIES

George W. Goodwin, Jr.
Special Deputy Sheriff
Edenton, North Carolina

NO law can be properly enforced if the proper punishment is not administered when the offender is convicted.

If murder could be justified in court by the payment of a small fine and court costs, men and women would kill each other upon the slightest provocation. As it is we have murders, but not to the extent that would occur if the punishment were less severe.

It is not the law that people fear, it's the consequence. Therefore, if bootleggers, rum runners, illicit distillers of liquor and people driving automobiles while under the influence of whiskey could be made to see that the punishment for their offenses would mean separation from their homes, friends and society for long prison sentences, they would to a much greater degree refrain from crime.

My father is now and has been for the last 16 years, the high sheriff of this county, and since 1919, I have served in the capacity as a special deputy under him. I have raided and captured several illicit distilleries and several bootleggers, and in every case in which I have featured there has been a conviction.

The Farce of Conviction

But in what did the conviction result? From 30 days to 12 months on the roads, suspended upon the payment of the cost of court and a small fine ranging from $25 to $200. In almost every instance the offender had already made enough profits from selling liquor to pay his or her fine a dozen times over, and readily paid it.

Then too, the courtroom is always crowded with liquor

sympathizers during such trials, every one bending an ear to find out, if he can, what brand the offender sells and the whereabouts of his headquarters. Lots of them never dreamed of his occupation before and go out of courtroom delighted over having found a new source of liquor for future needs.

Summing up the bootlegger's arrest and conviction, we find this:

1. Through an order of court he has paid **just enough fine to amount to a small license fee.**

2. He has received **an untold amount of free and first-class advertising.**

3. He goes back to his old haunts, except that he stops on his way at the best stores and buys **a new bunch of supplies in order to fit out a bigger and better rig in order to take care of the increased demand for his wares that results from his conviction.**

It's no use to argue that he will stop, because **he will not,** because **the punishment was not heavy enough.**

This analysis applies not only to my section of the country but everywhere. You can pick up our best daily papers and glance over the court records, and almost every day you will find where some one has been up before the law for violation of the liquor act, and **in almost every instance you will find that he paid a small fine and costs and was discharged.**

Make Violation a Felony

As to just punishments, I would suggest in all fairness to everyone concerned, to **put the violation of the liquor law in the class of a felony** and not a misdemeanor.

If I should take my shotgun and go out on the highways and start shooting, not shooting at anybody in particular, but just shooting, and should happen to kill someone, I would be tried for manslaughter and the punishment in North Carolina, my state, carries a prison sentence from one to five years according to the nature of the case, but in no manner may a fine be substituted.

If I should get in my automobile under the influence of intoxicating liquor and start down the highway and run over and kill some one, I would be tried for manslaughter and the same punishment would apply. But if my neighbor, or any bootlegger for that matter, should sell me liquor, knowing that I could not control it, and while under the influence of it I should commit a crime, then according to the laws of the land, he is an accessory after the fact and should be punished, but never is.

Now Worse Than Open Saloons

The above is one phase and a very horrible one, but to my mind the most terrible thing that confronts us is the fact that any child, boy or girl, no matter how large or small, can go out and in a very short while buy whiskey and drink it.

When we had saloons on every corner that was not the case. But now such conditions exist and are entirely out of control of the nation unless something is done, and that something must be drastic.

I'm not in favor of whiskey, nor am I in favor of having the so much talked of light wines and beers in dispensaries owned and operated by the state or government. Such action would only mean compromising by the good people of our nation with the works of the devil. And when we stand by and see the bootleggers sell liquor of any kind, and **ofttimes of uncertain origin and filthy environment,** to our small boys, young manhood and young womanhood as well as to our fathers, I for one am in favor of starting a drive that will cause our legislators to pass a law that will put the violation of the liquor law in any degree in the class of a felony and not a misdemeanor.

Prohibition's Greatest Enemies

Before I outline my suggestions, I want to say further that the greatest enemies the prohibition workers are confronting today are the officials that are sworn to uphold

the laws of the land. They, in my estimation, should be fed from the same bowl, except with a much larger spoon.

The rules of my conception that would in a great measure tend to bring about a great change in the enforcement of the 18th Amendment to the Constitution of the United States, are as follows:

Cumulative Jail Sentences

1st. Any person or persons convicted of violating the prohibition laws in any way, or operating an automobile while under the influence of intoxicating liquor, shall for the first offense be required to pay the entire cost of the court, and be sentenced to serve at hard labor not less than 18 months on some state farm or chain-gang. And for each succeeding offense, the sentence shall be increased to not less than one year above each preceding sentence, and under no circumstances shall the offender be allowed to pay a fine of any description.

2nd. Any officer or officers or any person or persons affiliated with any office of the state or nation who is sworn to uphold the laws of the nation, upon conviction of operating in any manner to thwart justice or trying to prevent violators from being brought to justice, shall be sentenced, for the first offense, to serve a term of not less than two years at hard labor on some official prison farm or chain-gang, the term for each succeeding offense to be increased not less than one year, and in no case shall a fine of any kind be accepted.

Harsh But Indispensable

The foregoing may seem hard to some people and even entirely out of line with justice. But if they will only stop for a minute and look into the future of that boy or girl who can now buy liquor and drink it, I'm sure they will agree with me in saying that it's high time something should be done to cope with it. And as I have said before, I'm positive that **no other means than severe punishment will suffice.**

CREATE A MONEY MOTIVE
for
CO-OPERATION IN ENFORCEMENT

Scott Graves, Prosecuting Attorney
Ottawa County, Port Clinton, Ohio

OF all the writing upon the prohibition question there has been no one who has treated the subject from a legal standpoint. We have all been looking for something difficult, something far off in the distance; **let us throw away our binoculars and slip on our bi-focals; something may be seen near at hand.**

In law crimes are divided into two classes, the first of which is malum per se. The **malum per se crime** is one which is **wrong in itself**; a few of the more common examples are murder, arson, burglary. All crimes of this nature are such a flagrant violation of an individual right that society has taken upon itself the task of punishing them in self-protection. The enforcement of these laws is fairly easy. Every one realizes that laws prohibiting such acts must be enforced or the individual will suffer. Nearly every one in our country thus acts as a detective or a policeman in reference to such crimes. Who would not call a policeman if he saw such a crime being committed or gladly give information leading to the arrest of such a criminal?

Crimes by Statute

The other class of crime is **malum prohibitum.** It is wrong **because the statute says so,** but otherwise not. A few examples in Ohio are fishing on Sunday, keeping a moving picture show open on Sunday, and exceeding 35 miles per hour in an automobile. The streams of Ohio are lined with fishermen on Sunday, the movies are open

on Sunday all over this state, and few people drive under 35 miles an hour on the open road.

These laws are not being enforced, never have been and, as years of experience show, probably never will be. John Hancock, one of the revered signers of our Declaration of Independence, was engaged in the illegal business of smuggling molasses into the colonies from the West Indies. Who cares whether these laws are enforced? No one cares, because their violation injures no one.

The 18th Amendment with its enforcement measure, the Volstead Act, is so broad that it **includes crimes of both classes.** On one side we have the saloon, which almost everyone agrees was an evil and should be kept out of business. Few saloons are seen now. There are some just as there are murderers and burglars; but violations of this type are very rare. In fact, the law in reference to violations of this kind is relatively well enforced. On the other hand, it is just as much against the law to possess liquor manufactured after the 18th Amendment was passed. Is anyone arrested for drinking at the golf club, yacht club, at home, with a party of friends, or for making home brew, wine, or hard cider? If anyone is arrested and fined for a violation of the latter type he is looked upon as a martyr, and it is considered rather a mean act to cause anyone's arrest for violations of this kind. Even the enforcement officers pay no attention to violations of this nature and frequently engage in the pastime of breaking the law themselves.

Against a Blank Wall

We are apparently against a blank wall in that the result is that the law in reference to violation of the liquor laws of **the malum prohibitum type are absolutely unenforceable because of the fact that no one is particularly interested in having them enforced;** no one is willing to co-operate, as in a malum per se violation. The judges of our courts, the business leaders of our country, the

congressmen, are all unwilling to co-operate. These highly respected men of our country are in a peculiar position when they say they want to see the law enforced. None of them make any effort to enforce it; they do not cause the arrest of violators. In fact, if they did cause the arrest of such violators **many would have a well-beaten path to the police station,** frequently traveled, and **often bent upon the novel mission of causing their own arrest.**

The experience of one thousand years of law making and law enforcement proves the proposition that **no criminal law is enforceable under our present method of enforcement unless someone is injured by its violation.** We will only co-operate when such co-operation keeps us from being injured; that is the incentive behind co-operation.

We have shown that non-enforcement of malum prohibitum laws is nothing new to us. The states have passed such laws and forgotten about them. The reason we are all incensed about violation of the liquor laws is because it happens to be the **federal government** which passed the law. This is the first experience of the federal government in engaging in ordinary police power regulation. The Constitution does not grant such powers to Congress; hence the necessity of the amendment to the Constitution to give Congress power to pass the Volstead Act.

Self-profit and Fear Needed

The long arm of the federal government has been in the habit of trailing criminals with great persistency. We have learned to respect federal laws because we feared them. See how the Department of Justice apprehends mail robbers and other federal offenders. We are proud of that record and we resent the open and notorious violation of the liquor laws simply because we have learned to respect federal laws. But the experience of the last ten years shows that **the abstract respect for federal laws is not enough to make us co-operate.** Thus we must **provide in our proposed enforcement measure something which will not only make us all co-operate in its enforcement,**

but we must also provide a reasonable expectancy of being caught if we violate the law. Whether we want to believe it or not, it is a fact that the fear of being caught and punished is one of the moving forces behind law observance.

The federal criminal laws operate in the following manner: The wheels of justice are put in motion by an affidavit. An affidavit is a statement under oath that a named person is guilty of a crime. A warrant for such a person is issued by the federal commissioner and the defendant is brought before him when he is arraigned. He may plead guilty or not guilty. If he pleads guilty the federal judge sentences him to imprisonment or fines him. If he pleads not guilty, but the commissioner finds enough evidence to warrant the belief that he might be guilty, he is released on bond to await the action of the grand jury. If the grand jury indicts him he is held for trial or released on bond pending trial.

Reward Informers

Nearly all affidavits are filed by ordinary persons who know of the crime and who think they know who committed it, or have reasonable grounds for the belief that he or she committed the crime. At this point we meet the greatest defect in the laws for the enforcement of prohibition. People know of individuals who break the law but will not prosecute them. They are not interested in seeing them prosecuted. I propose a law which will give the person filing the affidavit a share of the fine. In order to do that, we must set a minimum fine large enough to warrant a substantial payment to the person filing the affidavit. This will create the interest in seeing the law enforced, which is otherwise not present in violations of a malum prohibitum nature, but which is inherently present in malum per se violations.

But the Constitution provides that every person accused of crime may face his accuser in open court. Few of the persons filing the affidavit will be willing to do this.

Instead of filing the affidavit with the federal commissioner the proposed law will provide that it be filed with the district enforcement officer and with the affidavit also must be filed a statement where the accused keeps his liquor, or if he otherwise violates the law. This statement will also be under oath.

At this point the federal district enforcement officer will become the prosecuting witness. He will file his affidavit and also an affidavit for a search warrant, with the federal commissioner. He will base his grounds for belief that the law is being violated in that particular place upon the affidavit and other information contained in the statement filed with him. As Congress has the right to provide rules of evidence for trial in federal court we should also provide in our proposed law that **the informatory affidavit and statements filed with the district enforcement officer shall be adjudged to be reasonable grounds for belief that the law is being violated.** The home or other building is then searched and, if evidence is found, the prosecution goes on.

Reward Successful Prosecutions

We should also provide in our proposed law that **the district enforcement officer get a stipulated portion of the fine.** This will furnish the incentive for prompt action by the prohibition commissioner. It will also be necessary to provide that the affidavits and other information filed with the district enforcement officer be in confidence, only known to the officer and those charged with the enforcement of the laws.

Another necessary provision of our proposed law will make it **an offense for the district enforcement officer to begin criminal proceedings on any affidavit in any other order than that in which it is received.** This is to insure equality in enforcement and will thus **prohibit the district enforcement officer from playing favorites.**

When the fine is collected the clerk of court will turn over to the district enforcement officer the amount to be

paid to the one filing the informatory affidavit, together with the enforcement officer's bonus fee, and the enforcement officer will then pay to the person filing the affidavit the amount to which he is entitled. We must also provide that **a fine for violation of the liquor laws becomes a lien upon the property where the violation takes place.**

It can readily be seen that the prohibition commissioner will be very well paid and, as a result, a man of good character and ability will be obtained.

Destroy Bootleg Market

Thus we have provided in our proposed law that which the present enforcement measures lack. **We have created a monetary interest of a substantial amount, which will be plenty of incentive for anyone to file an affidavit.** Many of us, therefore, will make an effort to enforce the laws because we will be compensated in money for doing so.

Under this plan violators will also stand a reasonable chance of being caught; **therefore, the fear of being convicted will be present, which is not present under the method of prosecution now in force.** As a result, **the bootlegger and rum runner will be driven out of business, as their market will be destroyed.**

DIVIDE THE FIELD

Lieut.-Col. Ned M. Green
Former Prohibition Administrator
San Francisco, California

A LAW has been passed which has developed an **unprecedented resistance to enforcement.**

This resistance comes from a very large percentage of the people and is **not only a passive resistance of opinion, but one of money,** since much more than a billion dollars a year (probably several billions) is spent in violation of the law. This is amply proven by recent developments in Philadelphia. **This "capital investment" has made law violation one of the largest industries in the country and has poisoned the forces of enforcement with bribery and corruption.**

It is evident there are but two ways of approaching the problem. We must **either decrease the resistance or increase the enforcement.**

There is a great temptation to attempt an impressive discussion of the ways to reduce the resistance such as: changes in the Amendment; changes in the Volstead Act; new laws, state and federal; educating the public to law observance; taking prohibition out of politics, etc., etc.

But it appears to me to be only a waste of time to engage in a purely academic and futile discussion of changes either impossible or highly improbable within any reasonable time.

The Law Here to Stay

The Amendment is here to stay, and the Volstead Act will stay, just as it is, at least for some years, as the new Congress is more "dry" than the old one.

Changes in the other subjects mentioned, while they offer attractive topics for discussion, are too remote to even justify hope.

If we then drop entirely consideration of decreasing resistance to the law as one out of reach at least for the present, we have left only the problem of increasing enforcement, and in approaching this problem we might just as well confine ourselves to the use of the means now available, for that is all we are going to have, no matter how much we discuss and hope or even appeal for more. We have had the job now for eight years and the annual appropriations have become practically fixed.

Our problem then has narrowed down to ways and means of improving methods of enforcement or how to "do the best we can with what we have where we are."

We are at present in the middle of a very bad situation which seems to be "getting no better fast." The difficulties of enforcement which have caused this condition are too well known to need mention here.

We have, with which to extricate ourselves from this condition, the present machinery of enforcement and this is all we are going to have in all probability.

This machinery consists of two forces or we may say "armies," as the reporters like to designate them.

The annual congressional appropriation provides a federal "army" of about 2,500 men. The state and local army consists of around 500,000 men, peace officers of all grades.

It is plain that our only hope lies in the large state and local army and that the federal army should be so used as to first do the work that the local army is not equipped to do or will not do, and then if it has any effort left, to use that to aid and develop the work of the local army.

But at present there is much room for improvement in this respect.

More Prohibition Agents

How totally inadequate are the present means is appreciated only by those familiar with the work. Just this brief picture you should keep in mind. Take the total number of prohibition agents, around 2,500, take out ⅕ for time lost in court, consider other necessary reductions and in round numbers there will be available at any one

time for actual enforcement work (procuring evidence and making arrests), **about one man to 50,000 population,** or 16 men to dry up a city the size of San Francisco. **Even if this number could be doubled or quadrupled it would still be just as ridiculous.**

However, the machinery available is in capable hands (at the top) and is doing all it can do. To be sure there is corruption in the machine and perhaps other flaws, but these are constant factors in this work and we shall always have them.

Another little picture—you are administrator and you **send one of your $200 a month men out to do something and before he reaches the door he meets a man who offers him $1,000 not to do it.** What is the answer?

Much experience and knowledge of the subject could be displayed by enlarging on how and why the job is so impossible and how and why the means are so inadequate but this would gain no ground here and we must get on.

The limit of 2,000 words requires that I come at once to the subject and be very brief, so here are the suggestions I have to make. These are based entirely on my experience as Prohibition Administrator in San Francisco during 1925-6 and my police experience as provost marshal of Paris during the World War.

First I would **withdraw the federal enforcement agents from local police work,** especially in the cities where their relative strength, as compared to that of local forces, does not warrant the division of authority and responsibility that results. This would, of course, not be done abruptly or in a bungling manner. It would simply be announced as a new policy and would then be put into effect gradually and cautiously, first here, then there or maybe only partially at certain points, watching carefully the effect.

Have it understood that, **where there were well organized local police forces, the job would be left entirely to them,** that when the people had set up suitable police machinery for their needs the government would stay out of the territory and confine itself to the phases of the work not so covered.

Drying a Wet City

Suppose now that soon after this change some city **became practically wide open** (or a little more wide open is about all that could happen). After fair trial and it was seen that the people did not rise to the occasion and the situation got so that it was an annoyance to other nearby communities, then it could be considered to have assumed a federal aspect and the federal forces would act accordingly and what a golden opportunity this would give them! **They could then do more in one stroke than if they had remained and scratched at the problem every day.**

The work of enforcement divides itself naturally into federal aspects and local aspects.

The federal aspects of the problem are as follows:

a. Guarding the thousands of miles of ocean borders and the thousands of miles of land and lake borders to prevent wholesale importation and smuggling.

b. Preventing illegal transportation, especially interstate, and that especially difficult for local forces.

c. Controlling manufacture.

d. Supervising the thousands and thousands of permittees now engaged in the traffic legally—**the big problem of illegal diversion of legal liquor and the illegal conversion of industrial alcohol** which runs into millions and millions of dollars every year.

e. Assisting local forces where needed and when wanted.

Any one of these tasks is too large for the entire force. They are essentially federal and not local functions. So when we have a job of our own that is much too large for us, why interfere in local affairs where other forces are available?

A single example will illustrate.

San Francisco, for Example

San Francisco has a population of 800,000 and a police force of, say, 2,500. It is a self-governing community and able to handle all its own affairs. Now why send in the

federal force of 16 men to step right in front of the 2,500 men and begin independent operations?

This violates the first rules of success in any organized effort. You must not have divided authority and you must not have divided responsibility. Here you have both.

The mere presence of this little federal force takes from the big local force absolute responsibility and brings about a relaxation.

Now just a little arithemtic—suppose that the 16 federal men cause a relaxation of the 2,500 local men of even 1%; it is plain they are doing more harm than good.

Now do not say that there would be some places where this might not work, such as in states where they have no dry law. Do not doubt the ability of any part of this country to govern itself. They all want proper living conditions and they will have them. Of course, nothing will work everywhere and the policy will need certain modifications to meet exceptional cases.

Try it. You may be surprised. You know that few of the dire calamities prophesied ever happen.

Back away from local interference for a while and put the entire responsibility where it belongs.

An additional gain will be that then all the local civic organizations, law enforcement societies, etc., will concentrate on the local forces and will get results.

The federal force of 2,500 is doing the best it can but it is so small that its best is not much. It is plain that if we ever have even a fair degree of enforcement we must get it from the only force adequate to the job, the state and local forces of 500,000. We will get it from these or we will not get it at all, so we might as well put the job up to them right now.

Shift Enforcement Officers

Next I would frequently change the stations of administrators, assistants and agents. Do not let them take root. Corruption, like any business, requires good business connections of some permanence. It doesn't pay to bribe a

man today who is liable to leave tomorrow and be succeeded by another, who is bound to "get onto the racket."

If you want to keep them honest, keep them moving. There is nothing new about this. It is well known to all police officers; and it works. I have worked it many times myself when everything else failed.

Think, for example, how much more careful even an administrator would be if he knew that in six months, or at some unknown time in the near future, he would be relieved, and must turn over to his successors his job and his records with a full report of conditions to date, all to be checked and verified by such successor!

There is another aid which, judiciously used, can be made to produce large results.

I found that in many instances state and county peace officers were hindered by not being able to cross border lines freely. They could and would accomplish much more if in certain cases they had the authority of federal agents. In 1926 I put this matter up to Washington with the result that an executive order was issued authorizing the deputization of local officers as federal agents, without pay, when deemed advisable. There was some opposition to the plan, as there always will be to any plan that promises results, and this authority has never been used.

I reserve for the last the biggest and most effective change of all. A plan that cannot be used right now, but one that in all probability can be obtained and soon.

Center in Department of Justice

It is just this. Take prohibition out of the Treasury Department and put it in the Department of Justice. Why? Because at present you have divided responsibility and divided authority and often a condition varying from slight friction to open hostility, rendering all effort almost futile.

To get any results, the prohibition administrator and the U. S. district attorney must work like a team and this seldom happens.

If the U. S. attorney is a local politician, as often happens, he is responsive to local political leaders and probably has local political ambitions and he will "listen to reason."

If the prohibition administrator is an outsider with no local ties the war starts at once. It cannot be avoided.

The prohibition forces make the cases, but the U. S. attorney prosecutes them and he has the whole say as to who shall be prosecuted and who shall not. **The prohibition forces soon complain that they cannot get action** on their cases and the **U. S. district attorney says that the cases are not properly prepared.**

The fact that the prohibition forces have excellent attorneys, more experienced than the U. S. attorney, makes no difference. Nothing happens!

I have devoted much thought to this situation in an attempt to find some solution and I am satisfied there is only one, and that is to **turn the whole job over to the Department of Justice.**

Fix Responsibility, Demand Results

When you fix responsibility you can demand results. This unit would then have full responsibility and all of the means. They would stand or fall on their record. They would have a record of arrests made, cases made, cases prosecuted, percentage of convictions, dismissals and **why,** etc., all of which could be checked by their own inspectors and there would be no conflict of authority.

An **effective inspection force** must, of course, be a part of any such machine. High class inspectors above suspicion, who would see that those who did not "hit the ball" were replaced by those who would.

I have purposely avoided all details. Competent administrators would have charge of this work and could make all necessary adjustments.

CONSIDER EXISTING CONDITIONS

L. H. Hampton
Assistant Chief Counsel, Prohibition Unit,
Washington, D. C.

PRACTICABLE: Capable of being put into practice, done, or accomplished by available means. That is practicable which may be accomplished **by available means."** —Webster's Collegiate Dictionary.

To be practicable, any plan for the enforcement of the 18th Amendment **must consider existing conditions and must contemplate the means available for its execution;** legislation proposed must be **constitutional and reasonably hopeful of enactment;** action and policy suggested must be **lawful and reasonably possible of performance.**

To be effective, it must be practicable and also sufficiently comprehensive to provide the **legislation, organization, appropriations,** and **policies** necessary for its successful accomplishment.

On that basis the following suggestions, with their respective supporting reasons, are submitted as a practicable plan for the effective enforcement of the 18th Amendment:

Legislation

1. **Retain existing enforcement legislation, except for certain amendments hereinafter suggested.**

Reason: No legislation could be devised more comprehensively describing and denouncing as crimes the various acts and activities incident to the unlawful manufacture of and traffic in intoxicating liquors, nor establishing a more complete system of control of the legitimate manufacture and use of such liquors, than as now provided by law.

2. **Repeal that portion** of Section 25, Title II, of the National Prohibition Act, **which forbids the issuance of a**

search warrant for a private dwelling "unless it is being used for the unlawful sale of intoxicating liquors."

Reason: The effect of the present provision has been to afford legal asylum for illicit distilling, manufacture of wine and beer, and storage of stocks of liquor for illegal sale.

No similar special protection to criminal activities within a dwelling exists in relation to any other federal offense.

The requirement that "probable cause" be established for the issuance of search warrants in connection with other offenses always has been held a sufficient observance of the constitutional guaranty against unreasonable searches.

Illicit distillers and vendors of liquors have seized the advantage given by this provision and are using "private dwellings" for the operation of small stills and the storage of stocks of liquor, secure from search as long as they abstain from making sales within or directly from the "dwelling."

Repeal of the portion of the section above suggested would permit search warrants to be issued for such places upon proof of circumstances, legally constituting "probable cause," coming to the knowledge of the investigation officer by means of his natural senses, as commonly practiced and upheld by the courts as to places other than dwellings.

Prison Penalties Mandatory

3. Amend the first paragraph of Section 29, Title II, of the National Prohibition Act to read as follows:

> "Any person who manufactures, possesses, transports, or sells liquor in violation of this title shall for a first offense be fined not less than $100 nor more than $5,000 and be imprisoned not less than sixty days nor more than five years, and for a second or subsequent offense shall be fined not less than $250 nor more than $5,000 and be imprisoned not less than six months nor more than five years."

Reasons: (a) Possession and transportation are not as easily veiled in secrecy as manufacture and sale, but are

necessary complements to the effectiveness of those offenses and deserve the same penalties. Enforcement has been hindered by the present provision fixing lighter penalties for the more easily detected offenses, which permits a general practice of dismissing charges of manufacture or sale in consideration of pleas of guilty to possession and transportation.

(b) Fixing a maximum penalty of $5,000 fine and five years imprisonment on first and subsequent convictions makes all offenses felonies and enables the courts to impose adequate punishment on first conviction in flagrant cases.

Proof of Inadequate Penalties

(c) Experience has demonstrated that penalties are not being imposed to adequately punish offenders and deter others from committing violations: of 58,813 persons convicted for violation of federal prohibition laws in the fiscal year ended June 30, 1928, only 28.5 per cent were sentenced to imprisonment, the average sentence being 120.7 days; 71.5 per cent were sentenced only to pay fines, averaging $120 each.

The relation of penalties to enforcement conditions is easily demonstrated by comparison of known conditions with statistics showing percentage of violators imprisoned or fined, the average imprisonment, and average fine, in various federal court districts for the last fiscal year:

	Per cent Imprisoned	*Average Term: Days*	*Per cent Fined*	*Average Fine*
New York—				
S. Dist. (N. Y. City)	1.6	43.3	98.4	$ 26.03
Pennsylvania—				
E. Dist. (Philadelphia) ...	28.9	88.	71.1	124.75
W. Dist. (Pittsburgh)	7.3	109.3	92.7	135.12
Indiana	69.8	77.1	30.2	117.16
Michigan—				
E. Dist. (Detroit)	32.1	175.4	67.9	481.16
Colorado	67.5	159.7	32.5	225.72
Idaho	67.7	152.	32.3	295.94
California—				
N. Dist. (San Francisco) .	11.6	89.	88.4	304.17
S. Dist. (Los Angeles) ...	22.1	104.5	77.9	276.26

Punishment consisting only of a fine, in any amount, does not deter violators; imprisonment does.

Provision for minimum sentence and mandatory imprisonment on conviction would lessen the number of violators, relieve the courts of congested dockets and aid effective enforcement.

Organization

Separate the enforcement of the criminal provisions of the law from the administration of the permit system.

Reasons: Enforcement of the National Prohibition Act requires two distinct types of official functions: (a) enforcement of its criminal provisions, and (b) administration of its permit system. These functions are distinctly different in the service and policy required. A man who has the type of ability and temperament to judiciously administer the permit provisions of the law ordinarily does not possess the genius for investigation and vigor of action essential for successful direction of criminal investigations.

Experience has demonstrated that officers having supervision of both functions and who have undertaken vigorous enforcement of the criminal provisions, have caused serious complaints of their arbitrary or injudicious actions in connection with matters arising under the "permissive" provisions; but the general public feels little direct concern in the permit system, and believes the vigorous, effective enforcement of the law against criminals to be paramount. The result is that where we have administration satisfactory to the business and industrial concerns affected by the permit system, conditions are wholly unsatisfactory to the general public.

As long as these two incongruous functions are committed to one organization, consideration for legitimate business interests concerned in the administration of the permit system will continue to be a major factor in the selection and removal of supervising officials, to the disadvantage of effective enforcement of the criminal provisions of the law.

There should be separate organizations of personnel engaged in these two distinct functions so as to permit placing at the head of each a man whose past experience and

natural ability peculiarly qualify him for his particular responsibility.

At the head of the organization for enforcement of the criminal provisions of the law, there should be placed a **man of thorough experience and demonstrated ability in the investigation and prosecution of crime.**

Appropriations

1. **Substantial increases in appropriations are essential.** Congress should determine, by **exhaustive inquiry and hearings,** the amount reasonably needed for effective enforcement.

Reasons: Under policies of economy and retrenchment, effectively applied through the budget system, **no annual appropriation so far made by Congress has provided means for an effective effort toward enforcement.** For this reason the number of officers actually engaged in the investigation of violations has not exceeded 2,500.

Under the 18th Amendment the federal government is having its **first experience in the exercise of the police power,** yet it has provided for that purpose **a force of officers for the entire country that equals only a small percentage of the number of police officers employed by any one of our several large cities.**

It is just as futile to hope for effective enforcement with appropriations inadequate to maintain a sufficient number of officers to accomplish that purpose, as it would be to expect success at arms under like conditions. **The "enemy" in this case is well organized, well financed and directed by shrewd minds;** the government must match him in all three respects if it is to prevail.

Policy

1. Affirmative action should be taken by the government, through capable officials of high position, to develop an active and sympathetic co-operation between "dry" states and the federal government in enforcement of the

law, thus allowing concentration of federal officers in "wet" states refusing co-operation.

2. Faith in the ability of our government to enforce obedience to its Constitution and laws should be the only spirit, and an earnest purpose to perform its obligation in that respect should be the only policy, of all officers bearing responsibility for law enforcement. **None should be commissioned or retained in service who cannot prosecute that policy in that spirit.**

NEW YORK CAN BE DRIED

D. M. Hazelton
United States Commissioner, Gouverneur, New York

IT has been well said that, "Money is the root of all evil," and that is especially true if it is "easy" money like the big profits supposed to be made in the dope and liquor business. I have grave doubts, in my own mind, about the large profits in the liquor business except in some scattering cases, but the general public have the impression of big profits.

The question of the modification of the 18th Amendment and putting of the government into the liquor business as forced upon the voters at the recent election seems to have been settled for all time in favor of enforcement of the Amendment.

Living in New York State I shall preface my statement with consideration of the necessity for a state enforcement law.

The prohibition office for this district has in its territory six counties or more and at no time during the last two years have there been stationed here more than 16 prohibition enforcement officers and most of the time some are in some other district or at court so the force usually is not more than 7 to 10 men. It does not need any investigation to know that it is utterly impossible for that force of men to stop illegal sales in this district.

Use Local Police

In this same district are probably upwards of 1000 sheriffs, deputy sheriffs and constables who do nothing at present to enforce the law. Police of some cities and villages have given some assistance. Neither does it need an investigation to know how effective the enforcement would be if

that force of men, together with the police of all villages and cities and state police, were working under a state enforcement law.

The lid would go down so quickly that the hands of practically all selling would be caught, and the federal enforcement officers would be released to work on sources of supply such as stills, etc.

Besides, as we are on the border, great assistance would be given the customs agents, in fact the passing of liquor through this territory would be practically stopped and thereby greatly benefit several states south of New York.

In my opinion nothing has delayed effective enforcement of the 18th Amendment more than disregard of the law by men and women in high position, and people holding public office who have openly opposed the law and talked in a loud voice about "something good" they had just bought from their own private bootlegger.

In New York State open opposition to and disregard of the law by the head of our state government and a recent representative at Washington has made it appear to the general public that the law was wrong and not to be obeyed.

Wet Politicians Hinder

Besides, the influence of wet politicians in hindering and delaying enforcement in an attempt to make it appear the law cannot be enforced, is stronger than any one realizes, as well as the influence of the paid attorneys of the bootleggers and wet interests all the time pleading with the district attorneys and judges for leniency while the people who want the law enforced say nothing and then kick because leniency is shown.

A campaign of education should be conducted to arouse the public to its duty. It should be brought home to them that if they are not observing the law they are not "good Americans". The Anti-Saloon League is doing good work along this line but there is a big element that will not listen to them and they should be assisted by "big business" with

the heads of corporations setting the example instead of disregarding the law.

When the public is educated to the point that it will pass along the information which 25 to 40 per cent of the people now have, to enforcement officers as to places where liquor is being sold and where it is being transferred or loaded, enforcement will be simple. We have plenty of enforcement officers at present to handle the larger cases and smuggling. A state enforcement law could handle all sales cases, if the public would "put the U. S. first and stand behind it," and support the Constitution—or, in other words, be "good Americans."

Graded punishment and deportation should be added to the law.

United States judges and district attorneys all receive their appointments through the politicians and **most of the politicians are linked with the liquor interests,** so it is difficult not to have some lingering influence of the politicians in the handling of cases. In fact, it was openly charged during the recent campaign that the Republican party did not want to enforce the Amendment! Such charges are, of course, based on the acts of the politicians, as the people declared in favor of enforcement.

Public Can Enforce

Such conditions are unnecessary and as the public is educated to demand honest enforcement and to present its demands to district attorneys and judges, insisting that they live up to their oath, they will all disappear.

Now, cases may be improperly presented to judges by the district attorney or perhaps the case gets to a judge who has liquor influence behind him and **you have the example of a bootlegger, who has perhaps gone around armed or has used his car to force the car of officers into the ditch and endangered the lives of many officers, being let off with a fine of $50 or $100 or if he has been in jail 30 days, let go with a fine of $1.**

A new graded punishment law should be enacted so that

for the first offense the fine would not be less than $500 or, if the fine is not paid, 60 days in jail. For the second offense not less than $1000 or, if the fine is not paid, not less than 6 months in jail and third offenders **no fine and not less than one year in a federal penitentiary.**

Deport Alien Offenders

If the offender is a foreigner, deport after expiration of sentence and if naturalized, naturalization revoked. Baumes laws in New York and Bankers Association bank robber rewards in Texas show what can be accomplished by effective enforcement.

In addition, **special attorneys should be provided for and appointed under the civil service law** in the prohibition and customs departments to act with the enforcement officers, to investigate their cases and act with the district attorney to see that cases are properly presented to judges and thereby, so far as possible, remove all political influence from the cases.

Funds should also be provided for **under-cover work to provide basis for enforcement agents to work on.** Raids can only be made on search warrants or "witness buys." Witness buys are fairly successful in cities but are nearly impossible in rural communities where all agents are known, as an agent can make only one such buy.

Search warrants can be issued only on buys. Some judges are now holding that buy witnesses must be produced by the government and this cannot be done in all cases unless buy witnesses are agents. This, of course, is another aid to the bootlegger as his aim is to expose buy witnesses so that their usefulness will be at an end.

Of course, **the law might be amended to provide that buy witnesses on search warrants need not be produced.**

More Under-Cover Work

If plenty of funds were available for under-cover work to get evidence for search warrants so that a squad of 10 to 20 men would have work all the time in every district, it would

strike terror to the hearts of illegal dealers, provided, of course, the courts kept up their end of the work.

The liquor interests raised a great cry about funds being used for under-cover work and they had political influence enough so that appropriations were immediately cut off and enforcement work thereby badly crippled and the purpose of the liquor interests accomplished. Enforcement was becoming too much of a success.

If the burglars of the country raised a cry about funds being used for detectives' under-cover work, would we cut off the appropriations for detectives? No. Why do it, then, for funds for under-cover work to enforce the 18th Amendment?

Restrictions on the use of firearms on tires by customs agents and enforcement officers should be removed. The idea that a prohibition or customs agent has got to get ahead of a bootlegger in the road and on bended knee implore the bootlegger to "Please stop," is all wrong, in my mind. We don't do that with other violators of the law. If they don't stop, we shoot them.

An enforcement agent in this district, a fine young man, was recently, in trying to get ahead of a bootlegger to stop him, forced into the ditch and killed. If that bootlegger had known he would be stopped with lead if he did not stop on command, that young agent, worth 100 outlaw bootleggers, would be alive today.

Stop Coddling Bootleggers

As the situation is at present, the bootleggers know that the district attorneys of all the counties of the state are protecting them and that, if a bootlegger is shot while violating the law, the enforcement officers will be arrested and held under large bonds and indicted by the next grand jury on a serious charge, as was done in Jefferson County, New York, when a bootlegger was accidently shot when customs agents were endeavoring to shoot the tires, and as is now being done with an immigration officer in Franklin County because a bootlegger was accidentally shot.

Yet a man wanted on a warrant, while resisting arrest by the chief of police for another crime at Potsdam, N. Y., was shot and no arrest of the officer was made. **Why all this coddling of bootleggers?**

It is not my intention to defend the shooting of innocent people, but even in those cases I do feel that those people are to blame themselves. They should stop on command and the officers should shoot only at the tires, except with known desperate criminals, where they should have more liberty. Of course, the attitude of the liquor sympathizers is all against the officers, and the law-abiding citizens so far have kept silent and given the officers no support.

For example, in connection with a recent arraignment in St. Lawrence County, when a young man was arrested on the shores of the St. Lawrence River by customs agents, **sympathizers nearby complained about the officers shooting, frightening women and children,** when the smuggler started to turn his boat back for Canada. These sympathizers failed to realize they had picked the shore of the St. Lawrence for their vacation knowing that smuggling was going on and that the officers had no control over the smugglers as to where they would land, but must arrest them where they could get them.

This also applies to persons crossing the border at night or traveling a bootleg road. If they are ordered to stop they should obey, because, if they speed away, the officers at once have reason to believe they are smugglers.

State officers hampering the work of federal enforcement officers, in any way, should be removed from office by the governor. **One removal would stop it all or probably notice from the governor would be sufficient.** Lacking that support, **indictment** of district attorneys and such state officers **by the federal grand jury** would have a beneficial effect.

Encourage Enforcers

The bootleggers and liquor sympathizers are loud in their condemnation of all enforcement officers and **the law-abiding citizen seems to be so frightened by the loud talk of**

these liquor representatives that they say nothing to encourage enforcement officers who are risking their lives every day.

Of the spies sent out to spy out the land of Canaan in early time, some of them saw only the giants and came back with a report that nothing could be done, but others had a little courage and a little vision and reported the land could be easily taken. So it is today. There is no reason to listen to this loud talk of the "seekers after easy money" as if they were giants.

Every reasonable person knows there is no truth in the claim that "just as much liquor is drunk now as before the 18th Amendment," and investigators of other countries can see the success of the law, even if some of the people of this country are fooled by the propaganda of the liquor interests.

Brace and Rally

All great movements have been slow to be accepted. It took a war to settle the slavery question. All that is needed is a little courage and education of the people so that they will encourage and stand behind the enforcement officers, plus some slight changes in the law and "success is just around the corner." The words of Berton Braley seem to cover the case:

Though you are staggering, weak and blind,
Battered in body and dazed in mind,
You can't be sure that the other side—
In spite of its front of strength and pride—
May not be tired and jaded, too,
And fully as near "all in" as you;
You brace and rally—their triumph is gone.
Fight on!

AN EDUCATIONAL ORGANIZATION

Richmond Pearson Hobson,
Los Angeles, Cal.
Former Congressman from Alabama

THE plan consists in developing agencies to organize, mobilize, and direct the forces of effectiveness and to disintegrate and overcome the forces against effectiveness. The foundation for effectiveness is laid through **two educational organizations:** one to advance **alcohol education** for the youth and for the public; the other to advance similarly **respect for law and authority.** A **fighting organization** is set up with two main departments to organize and apply the power of law, respectively. A **finance organization** is organized to provide the sinews of war.

Preliminary Survey

Power for effectiveness lies in the attitude and the will of the people and in law mechanism to carry out that will. Power against effectiveness lies in the profits and resources of the legalized liquor traffic of the outside world and of the bootleggers within America, rooted in social drinking customs as old as the race and enmeshed in the revenue policies and politics of the governments of all other lands.

The 18th Amendment, by the Rhode Island decision, is an integral part of the Constitution. **No amendment to the Constitution has ever been repealed.** To the enforcement of the 18th Amendment, the Constitution itself calls the states as well as Congress. To the enforcement of the other amendments and of the original Constitution, only Congress is called.

The Undoing of America

Unable to repeal the 18th Amendment, the objective of enemy grand strategy will be to undo America by any

means and lay the undoing to the 18th Amendment as a warning to other nations. The most destructive agent is the alcohol being forced into the nation in **a siege along our coast lines and frontiers.**

The next most destructive agent is **propaganda that poisons the minds of the people and develops a lawless attitude in good citizens,** a feeling of resentment toward the 18th Amendment and the laws in pursuance thereof and a general disrespect for all law and authority. Abroad, the enemy will patiently conduct a world-wide propaganda against prohibition, and against America, until all other peoples come to hate us. This is happening. Upon this attitude of hate, sufficiently developed, could be built trade wars, financial and military wars.

The grand strategy for the defense, therefore, is to organize and develop education processes to cause the truth about alcohol to reach our people, and, as far as practicable, the people of the world. This is the field for a scientific organization to which all can adhere. Similarly, organized education processes should be developed for advancing respect for law and authority, to which likewise all can adhere. The truth about the liquor traffic and its sinister designs and conscienceless methods is part of the fighting processes. As public sentiment arises under processes of education, more and more the processes of law, federal, state, municipal, can be co-ordinated, standardized, and applied with ever rising power to the bootleg outlaws. **The same wrath of aroused public opinion is the best agent to take care of those who continue to associate themselves with the liquor outlaws as enemies of their country's Constitution.**

Eternal Vigilance

The struggle will not be over until the liquor traffic of the world lies dying. It is said to take as long to cure a disease and recover from its effects as the time the disease has run. Ignorance on the part of any future generation would open the body social to a new outbreak of this alcohol disease.

To make the 18th Amendment effective, the forces of defense must be organized on a permanent basis.

The Plan

The following are the logical names:

1. International Alcohol Education Association.
2. The American Association to Promote Respect for Law and Authority.
3. The 18th Amendment Association.
4. The 18th Amendment Finance Corporation.

The four corporations, under the guidance of high counsel, should be incorporated under the laws of a state, say, of New York, as organizations "not for profit." In later stages, one or more of these organizations might well be chartered by Congress. Both the alcohol education association and the law and authority association should be entirely free from affiliations with fighting organizations, and should be pledged in their articles of incorporation to **take no part in the prohibition fight or in any other controversial matter of public policy.** Thus they will command adherence from good citizens and constructive organizations regardless of their differences on prohibition or other controversial matters.

The 18th Amendment Association is the essential fighting organization and should be incorporated with the broadest powers to organize, develop, stimulate, mobilize, maintain, and operate forces and processes now in existence and new forces and processes found necessary or expedient to effect the purpose of the association, namely, to make the 18th Amendment effective.

All three operating organizations should have power to raise and expend funds, including endowments and trust funds for their own respective purposes. Mr. Durant, singly or with a group secured by him or appointed by him, should underwrite the organization expenses and the operating expenses for a reasonable time until the financing is placed upon a sound and firm basis.

This organic individual or group should co-operate in

choosing the incorporators, and these, in turn, the board of directors, who in their turn should select the president, and with them arrange for the selection of other executive officials, taking care to insure that the educational organizations have no officers or directors interlocking with the fighting organizations.

In view of the prospect of a long period of siege, the board of directors in each case should appoint a board of trustees and plan for securing and administering trust and endowment funds to insure permanency of support. **Foundations and endowments should become practical as the organizations develop,** and professional money-raising firms can be engaged to raise same. No one can foretell what the conditions may be centuries hence, so, in case of all trust and endowment funds, it is well to provide for the eventuality of using principal as well as interest.

The Finance Corporation

The key corporation is the 18th Amendment Finance Corporation. The success of this corporation will insure the success of the plan. Mr. Durant himself should take this corporation under his especial care and choose its incorporators and board from the foremost leaders in the business world, commanding confidence of the nation for ability and integrity. The articles of incorporation and the by-laws should be drawn with the greatest care and skill to insure full power to raise funds in all honorable ways and at the same time provide for needed safeguards. The board should promptly build up a finance council with representatives of all important fields, like insurance, banking, steel, oil, motors, radio, screen, etc. This council should prepare a general plan of quotas from the various fields. The councilmen from each field should choose a committee from the field to allot the quota among the firms and appear before the boards of the principal firms. A special committee should be appointed to systematically canvass philanthropy, including foundations. A special committee should be appointed to procure the appropriation of public funds, fed-

eral, state, municipal, and funds from public and semi-public corporations.

The organic person or group, or else the finance council, should underwrite the funds necessary for initial expenses for a professional money-raising firm of high standing to organize the raising of large funds, and leaders already chosen or to be chosen, as representing large groups, should arrange for the help needed for the set-up. There is every reason to believe that this campaign or drive, carefully planned, would be successful and solve the major financial problems at the start. **Control of large funds will give this organization especial influence in bringing about the affiliation and co-operation of organizations now in existence or to be created.**

Structure of the Operating Organizations

The International Alcohol Education Association should have two departments, one for the youth in the home and in the school, the other for the public, and should build up four groups of committees, one on organization, one on data, one on documents and methods, one on agencies. The fourth group should organize for disseminating alcohol information throughout society, and should put on Alcohol Education Week once in each year, in which all the great agencies of information should take part, including clubs and constructive organizations of all kinds. In its various committees, **this association should federate and harmonize existing agencies of alcohol education.**

The American Association for the Promotion of Respect for Law and Authority should be organized along similar lines and should undertake especially to federate, develop and stimulate the co-operation of existing patriotic organizations, fraternal and other associations, business, industry and professions, and should enlist the co-operation of homes, schools, colleges, Sunday schools, etc. Its two departments should be the same as those of the previous organization, one for the youth, the other for the public. Both of these organizations should commend the ever increasing

support and co-operation of federal, state, and city governments.

The 18th Amendment Association

The fighting organization should set up with two principal departments, one for processes of education, the other for processes of law. The department of education, through committees or bureaus, should take up and put forth lines of education for fighting purposes, and federate all educational agencies now existing and create new ones as needed, to rout all the favorite lines of enemy propaganda, showing that **the law is not intended to invade the home or individual liberty, but to exclude from the channels of trade the exploitation of commodities that, instead of giving value received, harm the individual**; that our country is under siege by a ruthless foreign foe; that our troubles are not due to the 18th Amendment, but to this organized, resourceful, and unscrupulous enemy. Especially should this education expose the enemy's supreme **defiance that we can not enforce our own Constitution in our own country**; that we are not master in our own house.

The law department should set up bureaus or committees for taking up processes of law of the federal government, then processes of law of the several states, then those of counties and municipal ordinances; should finally coordinate all processes of law, making a survey of existing laws and the degree of their enforcement; and from these work out plans for developing, standardizing, and applying more and more the full power of the law, driven on by an ever rising imperious public opinion. This department should cultivate intimate relationship with the governments, federal, state, municipal, and utilize, like the department of education, the power and instrumentality of existing organizations and activities, temperance, prohibition, church organizations, etc.

CO-ORDINATE AND MOBILIZE

Richard J. Hopkins
Associate Justice, Supreme Court
Topeka, Kansas

TO make the 18th Amendment effective in the United States the following steps are required:

1. **A detailed survey showing conditions of law violation and enforcement throughout the nation.**

2. **A federal Department of Prohibition, the head directly responsible to the President.**

3. **Co-ordination** of all the powers of federal and state governments, working in unison.

4. **Effective laws.**

5. **Capable officials in favor of the law.**

6. **Education of officials,** so that they understand fully their duties, **and of the people** so that they will co-operate with the officials in law enforcement.

7. **Eternal vigilance on the part of officials and the people.**

A public spirited citizen has propounded the question: "What is the best and most practicable plan to make the 18th Amendment effective?" John Sherman once electrified the nation by the simple statement that "the way to resume is to resume." His suggestion may properly be paraphrased here by stating that **"the way to make the 18th Amendment effective is to enforce the law."**

Ever since the ratification of the 18th Amendment its enemies have persisted in a demand for a national referendum, maintaining that its passage and ratification were secured by a minority. The referendum has now been held. **The nation in no uncertain terms has again taken its stand in favor of the Amendment.** Having done so, has it the power and determination to make the Amendment fully effective, and if so, how?

Primarily it is the duty of the federal government to assume the initiative in the enforcement of its Constitution and the laws made in support thereof. Both the federal government and the states, with two or three exceptions, have effective laws for the purpose. Therefore nothing remains but for the federal government, co-ordinating its power with those of the states and municipalities, to make those laws effective.

There are 2,400 federal enforcement officers, something over 10,000 officers and enlisted men in the Coast Guard and more than 5,000 in the customs department, whose duty it is to aid in enforcement of prohibition. Also upwards of 100,000 state, county and local officers bound to enforce the Constitution of the United States. **These officers, if properly co-ordinated, fully informed of their duties and acting in unison, can without question make enforcement effective.**

New Cabinet Member

The federal government must realize that **its very sovereignty has been assailed by wide-spread violation of its Constitution and laws.** Thus being primarily interested it should assume leadership in enforcing obedience thereto.

The writer proposes that there should be **a federal administration Department of Prohibition, the head directly responsible to the President.** It should make a survey of the entire field of operation in order to ascertain in detail the conditions of law violation and enforcement throughout the country. This survey, at least in part, could be made by sending a comprehensive questionnaire to officials, federal, state and municipal, throughout the nation. The information procured should be classified for consideration.

A limited number of men, either officials or private citizens who have previously had experience in prohibition enforcement, might well be called into conference to consider such information and to give their advice and counsel concerning the best methods for dealing with conditions as found.

The Department then having analyzed the conditions and

having the benefit of the advice of experienced men should, in conjunction with the Department of Justice, call **a general conference of federal prohibition enforcement officers,** U. S. district attorneys and attorneys-general of the several states to consider and adopt plans for a general co-operative offensive.

Indeed a **conference of governors** might well be called to devise ways and means for co-ordinating their forces to secure better enforcement of the law in their respective states.

When the plans have been matured by these several groups, their respective members should **call into conference the various law enforcement officials of their own states,** such as district and county attorneys, sheriffs, mayors and chiefs-of-police, and the whole plan of campaign given to them.

The same method should be **carried down to the counties and municipalities and to every law enforcement officer** who **has taken** the oath to support the federal Constitution.

When these things have been done, when the whole vast machinery of government, like an army, is placed on the offensive to enforce the law, the Amendment will be made effective. To this end it should be made clear that **any officials not in favor of the law and unwilling to enforce it, should immediately resign or be removed from office** and their places filled by those willing and anxious to do their duty.

Effective Laws

If it be suggested that we do not have adequate laws which these officers are to put into effect, the answer is that Congress and the several states, with two or three exceptions, can be depended upon to enact any needful legislation to enforce the Amendment. So far as the delinquent states are concerned, it may be observed that **the Constitution of the United States knows no state frontiers or boundaries.** When the majesty of the government itself is assailed it owes to its own self-respect a vigorous enforcement of the provisions of the Constitution.

Experience is the best guide, and **laws which have been**

successfully tried out plus what has actually been accomplished in the states and in the nation, by enforcement, point the way for future action. For instance, Kansas has given to prohibition the longest and best trial. There are not many situations in enforcement of the prohibitory liquor laws that she has not at some period experienced. Her prohibition history is a moving-picture of progress in law enforcement from early territorial regulation of the saloon and tavern in 1855, to bone dry in 1927. Succeeding legislatures, one after another, enacted more drastic laws and public sentiment with unerring certainty compelled their enforcement. The experience of the states and nation proves beyond question that **effective laws can be enacted and enforced whenever and wherever the officials in good faith attempt it.**

It must not be expected to win this battle over-night, Prohibition laws become effective only through time and experience. This army of officers co-ordinated, kept working and continually in action will repeatedly meet new emergencies. It will need to employ new strategy to meet new forms of lawlessness. Such changes will not require the abandonment of worthwhile policies and methods but only their modification to meet the new conditions.

Out of her long experience and changing conditions, Kansas enacted an **ouster law which provides for the removal from office of any derelict law enforcement officer.** The procedure is short and certain. The ouster action may be, and in many instances has been, filed directly in the supreme court and the derelict official suspended from office on five days' notice.

Sober Enforcers

Another law, which has proven effective, provides that **every person holding an office of trust or profit who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, shall forfeit his office and be ousted therefrom.**

Still another, in constant use, **authorizes the attorney-general, county attorneys and city attorneys to hold inquisi-**

tions and compel witnesses to testify concerning violations of the prohibitory liquor law.

But all in all, these officials will find as they proceed in their work that **the most effective instruments for enforcement of the 18th Amendment are the nuisance acts**—federal, state and municipal—which provide that all places where intoxicating liquors are manufactured, sold, bartered or given away, or where persons are permitted to resort for the purpose of drinking intoxicating liquor, or where they are for sale, barter or delivery, are declared to be common nuisances. **Under such acts all property used in connection with such nuisances may be seized and destroyed.** The maintenance of such a nuisance **renders the lease void and gives the lessor immediate right of entry.** If the owner knowingly permits operation of the nuisance he is deemed guilty of assisting in its maintenance.

One has but to examine the decisions of the federal and state courts to ascertain the far-reaching effects of the nuisance acts. For instance, the federal court may padlock a resort for a year if necessary. The placing of a sign upon a hotel, club or other building, worth millions of dollars, that it has been closed for a year by order of the court for violation of the prohibition act, will go far toward deterring those inclined to disregard the law.

For illegally carrying on the business of a distiller **not only one's personal property but the real property on which the distillery is operated may, under the revenue act, be forfeited to the government.** If this forfeiture clause is used wherever the facts justify, or is extended to the National Prohibition Act and actually enforced in the metropolitan centers of the country, **owners of valuable property will prevent such violation on their premises.**

Capable Officials

The suggested plan involves the appointment or election of the best qualified, most capable and experienced officials obtainable—men who believe in the laws they are to enforce. It hardly requires argument to show that men op-

posed to the law will not properly enforce it. They are apt to take the position that the law is a failure and cannot be enforced. **They are too prone to surrender upon the appearance of difficulty.** No business concern would place at its head a man who did not believe in the business even though he stated that he would honestly try to make it a success. **The failure of law enforcement, in most instances, has been because derelict officials failed to do their duty.** The officer who believes in the law can enforce it. "He conquers who believes he can."

Education

The plan involves education. In knowledge of the truth concerning alcohol, by all the people and especially the young, lies its complete and **ultimate prohibition** as a beverage. Therefore **the reasons underlying the law and the necessity for it** should be taught the youth, the alien and the unreconciled American citizen.

Scientific temperance education and the social and economic benefits of prohibition should be taught in the schools, colleges and universities because from such institutions must come the men who will determine the future destiny of the republic.

Students should be reminded that **in our mechanical age, high-powered machinery, swift motor cars, flying airplanes and whirling dynamos cannot be operated with safety by those who use intoxicants.**

Education is needed to combat the thought retained by some of the wealthy that a social event is not complete without an intoxicating, sparkling drink even though it is tinctured poison bottled in the barn. It should be brought home to them that **a violation of the 18th Amendment is a violation of the Constitution and an insult to the flag which represents the majesty of the law.**

The plan involves **mobilization of the nation for law observance and enforcement.** The forces of right should be organized, informed and on duty. It should be proclaimed that the greatest service one may render his country is to fight for its highest welfare in time of peace as well as war.

HARNESS THE NATION'S SCHOOLS

F. L. Johnston
Justice of the Peace, Newport, Ohio

THE fullest meaning of the prohibition laws as they have been enacted, and all they mean to our nation and our citizens, was not fully understood by the masses.

Proponents expected too much at once, while opponents offered no help to make it effective. The result seems to be general dissatisfaction with conditions as they exist today.

When prohibition became effective nine years ago, the gigantic task of drying up the nation was vested in the Treasury Department of the United States. There was no precedent by which standards of enforcement could be measured. It was new and untried, and there had to be worked out methods and plans which might be most effective.

These moves on the part of the Treasury Department **were to a great extent stalemated by opponents** of the law who devised means and methods to overthrow and defeat the Treasury programs.

The court decision in Cincinnati, Ohio, which was later affirmed by the Supreme Court of the United States, whereby the **authority of mayors and justices of the peace was reduced to the point where they could do little except to certify offenders to the higher courts, was a serious handicap to enforcement.**

Secret Service Gets Its Man

The **responsibility for enforcement must be transferred from the Treasury Department to the Department of Justice.** This may at a glance seem rather revolutionary, but the ends will justify the means. Offenders against the law would rather combat the police department of any city than

know that the Secret Service of the government was on their trail. The mysterious movements of their unknown Nemesis, the effectiveness and the tenacity of its agents, will turn back many a potential bootlegger.

When a Secret Service man goes for information he gets it. The United States district attorneys, and the United States marshals would become a part of the machinery, and under the Department of Justice, violators would more surely feel that in selling liquor they were committing a criminal act against the government, and that the Secret Service men would be after them as they no doubt would be.

A law should be enacted to place **a criminal responsibility upon the purchaser of contraband liquor.** To be found in a state of intoxication should be **prima facie evidence of purchase.**

Let a clear and concise statement as to who sold him the liquor work toward a mitigation of penalty. Make evasion constitute perjury.

Teach Basic Facts Wholesale

The election of November 6th, 1928, was **in effect a referendum upon the liquor question.** Taking it as such, we find that the sentiment is overwhelmingly in favor of prohibition. In view of this, we should set up another department of government, preferably a cabinet portfolio, to be known as the **Department of Education.**

To provide this department with sufficient authority to make its effects distinctly felt, there should be laws enacted by all states to set apart a certain period of each school day for instruction in the Constitution of the United States by the teachers of the various grades with help provided them by the proposed Department of Education.

This instruction would be intensive and comprehensive with respect to the Constitution, relation to government, the prime necessity for obedience to it. Such teaching should be started when the child reaches the age of understanding—perhaps about the third or fourth grade where the instruction might be in the form of interesting stories and

fables, showing the rewards of faithfulness and obedience to all laws.

Have the instruction so thorough that by the time of graduation the graduate would have a knowledge of every section and every amendment so that he or she would be able to give a satisfactory interpretation of any and all parts.

They should be **instructed thoroughly all the way through school** that all success, and all achievements of individuals, are based primarily on the morality and character of the individual. That unless they have these qualities, they cannot hope to reach the heights, but with them, that there can be no limits placed upon their capabilities. That the young man starting out in the world who has acquired the liquor habit has effectively shut the gate of opportunity to himself. That if he associates himself with youths of questionable character, he is placing himself unconsciously in the same category. The young girl should receive intensive training that the joy ride automatically removes her from the best class of society and creates a suspicion that a lifetime might not erase.

Do Literates Violate Law?

Each year, there are 2,500,000 of our youth who reach graduation age. In the next ten years there will have been the great number of 25,000,000 persons who have reached and passed the graduation age. If all of them have had intensive training in morality and character building, and have attained a good education, **is it not reasonable to believe that they have learned to demand these qualities in others, and to be in a sense crusaders for right and law observance?**

One of our most populous states has 174,000 illiterate adults. From the largest city of that state come stories of flagrant liquor law violations, gang killings, graft and general disorder, and that city contains more than 68,000 illiterate adults. This lawlessness cannot be laid to educated persons. They no doubt contribute, but the percent-

age is small. It is the pool rooms, the dives and speakeasies which start the careers of crime, and here is fertile ground for the efforts of the proposed Department of Education.

Compulsory school laws, strictly enforced, are needed.

Working certificates should not be issued to children under the age of 18 years, except in extreme cases, and then only after rigid investigation.

Build Up the Civic System

The length of time daily allotted to the instruction of pupils under this new order of things should be left to the discretion of our Congress. **We must expect it to take time.** It cannot be accomplished in a day. **If we are stricken with a serious illness, we need a physician and he does not expect an instant recovery. He knows the causes and aims to remove them. While he is removing them, he tries to build up the system, to give it strength to combat the ravages.** So it is here. The Department of Justice will hold violations in check, while the Department of Education builds up the character of citizenry to set forth to aid the cause of right and loyalty.

Full Speed Against Violations

During the process of teaching in the schools the Department of Justice should be **going ahead at top speed to crush out violations,** and **while it was suppressing and holding in check the general disorder the schools would be providing a new citizenry and new helpers all along the line.**

Before an immigrant is allowed entry into this country, he should be required to pass an intelligence test and be **armed with certificate of character from his former domicile,** and this should be approved by the officer in charge at the port of embarkation and his seal affixed.

All aliens convicted of violating our liquor laws should be deported to the country whence they came.

If the pupil can have created within him an enthusiasm for success and an abhorrence for things evil, he will carry

it into his home and the average parent will become a co-worker with the Department of Education.

Here is fertile soil for the parent-teacher association, civic organizations and all societies which have as their object a full respect for our government and its institutions.

All appearances of compulsion should be avoided. The process would be slow, but it would compensate richly. If in the future, for any reason, the 18th Amendment should be repealed, the country would be infinitely improved by the higher standard of citizenship attained from such instruction and the efforts would result in all gain.

Politics will be eliminated. It will give greater independence to public officials. **The prohibition question will become non-partisan as it should be.**

The man in public life will be shamed in his own conscience if he fails to co-operate in this great cause and his support will gradually drift toward the movement. He must set the example, and he will do so.

Parents, witnessing the great efforts the government is putting forth in the interest of their children, will fall into line and co-operate, and when the movement reaches a sustained momentum, the sentiment for it will reach the proportions of a great political landslide. The number not adhering to it will be negligible.

Then we can proclaim to the world that **when we undertake anything we accomplish our purpose** and we can, before another nine years have passed, tell them **we wanted prohibition and that we got prohibition,** and in addition, we can **hold up our citizenry as the highest type the world has ever seen.**

The Department of Justice and the Department of Education, given proper legislation to support their efforts, will do all I have outlined here. The cost may not reach the present appropriations, but whatever the cost, it will be richly worth while, and the "bogy" about it being impossible to enforce the prohibition laws will be buried so deep under the weight of public sentiment that it cannot ever hope for a resurrection.

RE-ENFORCE ENFORCEMENT

John R. Keister
District Attorney, Greensburg, Pennsylvania

THE plan herein respectfully submitted, to make the 18th Amendment to the Constitution more effective, is epitomized in the next following paragraph, and then, in the remainder of this paper, given elucidation.

Two postulates are first presented, and a conclusion is drawn therefrom. First: No war or national conflict, especially a major civil conflict within and waged by a democracy, can be won in this day and age, without the support of the general public opinion of the citizens of the belligerent government. Second: The governmental authorities of a belligerent nation are at all times after the declaration of a war, charged with the duties of estimating public opinion and developing the morale of its citizens, and the burden of those duties cannot be shifted to extra-governmental agencies. Conclusion: Therefore, in the present peace-time but acute civil conflict, wherein our government opposes its declared public enemy, the liquor evil, **continued enforcement must be re-enforced by enabling laws providing for the immediate mass drafting and training by the government of the reserves of public opinion:** this by (a) a thoroughly extensive, persistent and intensive campaign of propaganda and popular education along prohibition lines, and (b) a combatting of contra-treasonable propaganda promulgated by the enemy and his conspiring allies.

Objection is raised that only the crank, the radical, the bigot, regards the liquor issue equivalent to a war of the first magnitude. Turn, however, to the pages of history and regard the unequivocal attitude of Abraham Lincoln. Prior to the Civil War, he alluded to the **abolition of liquor**

as a revolution wherein this nation should

> "find a stronger bondage broken, a viler slavery manumitted, a greater tyrant deposed; in it, more of want supplied, more disease healed, more sorrow assuaged. . . . And when the victory shall be complete—when there shall be neither a slave or drunkard—how proud the title of that land which may truly claim to be the birthplace and the cradle of both those revolutions that shall have ended in that victory."

Space is taken to quote verbatim these pregnant and timely words of the Great Emancipator, to show that he in common with countless others did not minimize, as is often done today, the importance of the liquor issue in the life and destiny of his country, nor assign to that issue a comparatively minor position in the national agenda. On the contrary, he declared in no uncertain terms that issue to be even more important than that then burning question of human slavery. And, what is more significant, he visualized the process of eliminating that evil, as a **revolution,** and the result as a **victory,** national in scope and vastly beneficial. Not "weasel words" these, but sound doctrine, with the unmistakable ring of war: not necessarily a war of bloodshed perhaps but still a vital conflict requiring the utmost of us as that nation which is admittedly in the forefront of civilization.

Change Government Attitude

The successive steps necessary to be taken, under this plan, are:

First: The cultivation of **an attitude of government, different from that which apparently now obtains, toward prohibition.**

Our chosen representatives, national and state, must keep before themselves these facts: that our nation is, even now, under the wings of peace, engaged in a struggle as crucial and challenging as any war ever waged; that it is an honorable conflict, worthy of the utmost ingenuity of the tactic-

ian, the self-denial of the patriot and the sacrifice of the hero; **that naught is to be gained by a policy of avoidance, extenuation or watchful waiting**; that just because the issue is commonly made a matter of politics, is **no reason why the government should stand aloof as to propaganda**; that all available resources of the nation, except the military, must be drawn upon, especially those fundamental agencies of education; that neither the government, nor the people loyal to it, are or can properly be regarded as neutrals, but should and must be belligerents in open opposition to the clamorous though subtle, but intrinsically weak, enemy; **that the nation might as well try to wage war with Japan without using the navy, as oppose the liquor forces without enlisting the support of federal-engineered propaganda to mold the opinions of the masses**; that this major burden of the war cannot be left to the W. C. T. U., the Anti-Saloon League, the churches and similar organizations but must be borne, without evasion, by the government which has declared hostilities.

Nation Should "Sell" Prohibition

Second: The adoption of legislation establishing **a national bureau to inspire a proper morale in or in trade parlance to "sell prohibition to" the people**: native and foreign, educated and uneducated, rich and poor, "each in his own tongue."

The masses of the people must be led **by the government and by it alone,** to a vivid realization of the real significance and seriousness of the conflict, not principally as a moral, but as an industrial, social, economic and humanitarian one, and of their part therein. Without the pomp and circumstance attending war, the blare of trumpets and the rattle of drums, this will be difficult to accomplish, but far from impossible.

Ways and means should include the printing and periodic distribution of governmental books and pamphlets in various languages; the employment of lecturers and approved volunteer speakers (preferably not ministers and certainly

not radicals) to address groups, foreign and native, throughout the country and by radio; compulsory courses in colleges and public and parochial schools; articles and advertisements in newspapers, magazines and on the screen; with special matter designed for all executive and police officers, inferior and superior.

Simply to illustrate, and not to limit the scope of such program, the following outline sketches of certain essential lines of thought, elemental but consequential, must be presented:

10 Indispensable Steps

(1) **Proof** (plenty is available) **to explode that supreme fallacy,** which in spite of common observation and reliable authority has gained a wide popularity through ceaseless parrot-like repetition, **that "prohibition enforcement is a failure and cannot succeed";** together with facts demonstrating that even as imperfectly enforced, it is a remarkable success.

(2) **The manifold and obvious evils of alcohol,** historically, physically, morally, economically, socially: **how it cripples both labor and capital;** corrupts politics; augments disease, poverty, prostitution, bestial habits, industrial and other accidents; **co-ordinates commercialized vice and encourages crime.**

(3) The **fallacy of the personal liberty argument.**

(4) The **patriotism of obedience and ethics of abstinence.** Some men, particularly the "educated" (?), should perpetually be instructed that full maturity is not truly attained, until puerile ideals of bibulous pleasure and psuedo-sophistication are cast aside.

(5) That people who support the 18th Amendment and a vigorous enforcement thereof, as a proven benefit, are not professional reformers, bigots, crepe-hatted clerics, but thoughtful, sensible, altruistic, optimistic, average Americans.

(6) **That prohibition agents are in general of a high type of manhood, and as such to be exalted and not vilified;** that the police officer with brass buttons, pistols or ammunition

belt is entitled to no more respect than, and often not as much as, the persevering federal or state prohibition agent wearing plain clothes.

(7) **That we must be patient:** thirty years time was required to achieve enforcement of the anti-slavery laws in England; that complete enforcement of any law is impossible; that the prohibition law after all does not have to be enforced relatively as completely as most laws to be "successful"; that it is **abnormal and unmanly for either individuals or nations to abandon worthy projects simply because accomplishment is difficult and success is deferred.**

Make Violators Pay the Bill

(8) That the educational campaign will not cost nearly so much as a war of arms, and **the violators of the law do and should "pay the bill"** in fines imposed.

(9) That **enforcement should be a matter of national pride;** that we owe it to unborn generations as well as to those who have sacrificed, to carry on and not be quitters; that this nation has a greater obligation to humanity, and a higher example to set, than other nations; that even though the patent benefits of prohibition have been gained at the expense of some "integrity of government" (more grafting), a concerted effort will largely eradicate grafting: which besides was ever prevalent prior to 1919.

(10) That it is a **blot on our national honor to encourage congressional investigations as to whether prohibition is a success; such time could be better spent on devising effective methods of progress.**

Before concluding, two self-evident corollaries demand attention:

First: Legal means can be devised and must be adopted to suppress, in some effective manner, the unpatriotic propaganda of certain newspapers and publishing syndicates, perverting and coloring news items so as to discredit the law and ridicule enforcement.

Second: If the Constitution follows the flag, the flag, and

all that it signifies, should follow the Constitution. Hence, coincident with education, and mutually to re-enforce it, **vigilance and force must be increased.** Laws can and should be strengthened in rather obvious details.

It is absolutely essential to **raise the number of prohibition agents** to a ratio of one to 5000 population throughout the country. This will not be expensive: **each always provides his own salary through fines paid as the result of his convictions.**

Agents **should** reside in fixed bailiwicks, but **residences shifted** when advisable, though never to the community of their former homes and friends.

Training schools should be maintained; liberal salaries, graduated for efficiency, provided; **honesty and honor above all** demanded of agents.

Studies of "Tough" Localities

Special staff, intelligence and uniformed highway patrol units are requisite; **careful studies and plans to be made of "tough" localities and operations;** provision made for remuneration of reliably recommended "spotters," preferably engaged in other occupations; and last, but not least, **less regard had by the law for the fiction that "my home is my castle":** do not customs agents justly invade one's privacy, without search warrants, "pro bono publico"?

No doubt the originator of this competition, destined to be of incalculable national benefit, meant that but one principal idea be incorporated in each offering, and that subordinate details be omitted. On that assumption, the undersigned has set forth only such details as are ingredients of the plan itself, or necessary to give it effectuality. The further dependent desiderata might however be added: that **the number of judges,** federal and state, **be increased** if, when and where the demand exists; that judges be urged and enjoined, by law or otherwise, to **impose more and heavier jail sentences and to grant fewer paroles;** that court calendars be altered to **allow more time for the disposition of liquor cases;** that there be arranged

closer co-operation between judges, prosecutors and prohibition heads.

A wet propagandist in a recent circular boldly proclaimed: "In our state of Pennsylvania, the judicial system is breaking down under the strain. It is almost impossible for our judges, underpaid and overworked as they are, to carry on under the burden." It is submitted that a poll of our judges would demonstrate the falsity of this statement. If in some counties this be true, let more judges be provided and some **patent sensible reforms be made in court procedure.**

To Theodore Roosevelt is attributed the dictum that we should "back righteousness by force". If such force be judiciously deployed, then, in conjunction with our all-important campaign of propaganda, it is a safe prediction that **within five years court calendars and overworked judges will be relieved, jails begging for inmates, and law enforcement so obviously successful that it will meet with general approbation.**

Supreme Human Experience

President Hoover in describing prohibition as an "experiment", does not and cannot view it as analogous to a chemical test, requiring simply to be passively and silently observed by the experimenter, but as **the supreme human experiment of history, and one which requires the utmost effort on the part of those who have undertaken it and who are charged with its successful consummation.**

PUT "VIOLATION IS A FELONY" on POSTAGE STAMPS AND POSTERS

Harold C. Keyes, New York
Formerly in United States Secret Service

THE most important resistance met with in the enforcement of the 18th Amendment is the almost universal belief that prohibition can not be enforced. But government police work has successfully coped with violations of other federal laws, and I sincerely believe it can successfully enforce the prohibition amendment. The National Prohibition or Volstead Act is strong enough to enforce the 18th Amendment, **if the federal authorities will attack the problem in the same manner as they do violations of other federal statutes.**

The following suggestions are respectfully submitted by one who has carefully studied the subject and brought to it his experience of many years in the government service.

Every violation of any of the provisions of the Volstead Act that requires more than one person to conspire is, by virtue of the law itself, classified as a **felony** in the same category as violations of the counterfeiting and narcotic laws.

Fight Ridicule With Facts

The public does not properly appreciate this point and **does not regard the violator of the Volstead Act with the same abhorrence as the white slaver, the drug peddler, the counterfeiter or the forger,** though all are felons in the eyes of the law.

The 18th Amendment and the Volstead Act are **constantly held up to ridicule and contempt by the press, the stage, etc.** The government, on the other hand, has never expended a

dollar in intelligent publicity to offset this insidious, nullifying propaganda.

The federal courts are so disorganized by the number of prohibition cases and the difficulties of dealing with them, that it has become the custom in many federal courts, in order to expedite the handling of prohibition cases, to turn the days for pleading into **"bargain days" for those who will plead guilty. The practice has carried over into other kinds of federal cases and federal judges now treat the more serious felonies with greater leniency.** Compare the present common sentences of a year and a day in counterfeiting cases, for instance, with the former maximum sentence of 15 years which was usually imposed, and the effect on the courts of slack prohibition enforcement is obvious.

Let the federal authorities inaugurate an educational campaign to impress upon the public and the courts alike the fact that conspiracy—violation of the Volstead Act—is a felony, using post office slogans, posters, and newspapers and periodicals in strategic sectors as advertising mediums. **"Violation of prohibition is a felony"** stamped on every piece of United States mail and prominently displayed in posters would have a wholesome effect.

Stop Overlapping

Take the direction and control of prohibition enforcement out of the Treasury Department and relocate it entirely in the Department of Justice. Under the present system, investigation and trial of violations of the Prohibition Act eventually come into the hands of the Department of Justice, but the duties now vested in the Treasury Department cause **an overlapping of authority, lack of co-operation, delay and inefficiency.** Men now have to be detached from the prohibition enforcement service and reassigned to the staff of the federal district attorney for investigating complaints and obtaining evidence for prosecutions. Vesting full control in the one department would make for efficiency and economy.

Abolish entirely the office of sectional prohibition admin-

istrator, applying the moneys so saved to the creation of additional judges, district attorneys, etc., with salary increases as outlined below. **The office of prohibition administrator is a political plum.** The prohibition administrator is usually in conflict with the federal district attorney whose duties overlap his own. He is subject to political influence, being, usually, a local politician chosen for his value to his party rather than for his ability; and subject to the even more vicious influence of liquor racketeers. It has been the open boast of the latter that they are able to designate prohibition administrators. There is no co-operation between zone directors and no real control from Washington.

Centralize Control

Centralize the direction and control of prohibition enforcement in Washington, abandoning entirely the present system of decentralized control which is the joy of the bootlegger. Make the central base in Washington responsible for the assignment of enforcement squads to be sent to geographical sectors within the jurisdiction of the government. These enforcement squads would be similar in character and operation to the famous flying squads which have been so marvelously efficient in the Secret Service. Their advantage is that the agents are not under local influence and are in constant touch with the chief in Washington. Under the present system Washington has to send out flying squads whenever real action is wanted.

Particular care should be taken that **field squads are not left in any particular sector long enough to become acquainted with persons interested in purchasing their good will.** It is also essential that the personnel of field squads be continually changed, to prevent squad members from working in collusion; and that each squad be under the direction of an agent-in-charge. Such supervisors should also be subject to change of assignment.

It is suggested that **the supervising personnel be drafted from experienced agents from the Secret Service and Department of Justice,** of at least five years' service.

Raise the standard of pay for prohibition enforcement officers to the standard in vogue in the Department of Justice and the Secret Service. **The present wage scale is ridiculously inadequate,** discouraging the better type of applicant from seeking an appointment, inviting temptation and obviously weakening the resisting power of agents in their contact with those who offer bribes.

Thoroughly investigate applicants for appointment and compel each to furnish written recommendations from a clergyman, a reputable business man and a former employer. **Under no circumstances permit political influence to assist applicants in securing appointments.**

No Place for Ex-Bartenders

Appointments should be open to all citizens of the United States, men and women alike, regardless of race, creed or color. **Ex-saloonkeepers, ex-bartenders, or any persons ever employed in the liquor business, directly or indirectly,** should not be acceptable as agents of prohibition enforcement.

Limited periods of appointment should be discarded and **promotion accorded through the merit system and seniority.** Seniority rights, however, should prevail only when an agent's record merits prior consideration. **The so-called limited or "three months appointment" has permitted job juggling by politicians.** With a hundred men seeking one job, there has had to be a quick turnover and agents have naturally been tempted to grab as much graft as possible while the grabbing was good.

Agents accepting bribes are committing acts contrary to their sworn duty, and when proved guilty of the charge should be prosecuted, as examples, to the full extent of the law.

Daily reports of agents, so far as possible, should be sworn to. This would compel the agent to be careful what he said, prevent his recantation, and give his report standing in court if anything happened to him. Many prohibition cases have been lost because of the death of the agent or the unavailability of his report as evidence in court.

Prohibition enforcement agents should be empowered to make arrests and should receive the whole-hearted protection and support of their superior officers in all lawful activities connected with their work. When an effort is made to secure the right kind of men for the service, there need be no fear of abuse of authority.

Wider Co-operation Needed

The control base should take steps to enlist the good offices of all other federal departments, such as the post office, for making available to agents any records necessary in investigation work and vital to the prosecution at trial.

The control base should also solicit the co-operation of police departments, municipal and state bureaus and banks, in the same manner.

Failure of local police to co-operate at present is due, in part, at least, to their lack of respect for prohibition officers. Let the prohibition agents achieve the standing of Secret Service men, say, and there will be no lack of co-operation.

Create a bonus fund such as exists in the customs service today, which would permit the government to pay a bonus of 25 per cent of the value of all seized goods. **Make this bonus available to agents and also to citizens,** as a reward for conscientious work in uncovering liquor caches. This should apply to seizures on land and sea. **The prospect of a bonus would go a long way toward offsetting the acceptance of bribes by agents.**

Create a special court within the present court area for the handling of prohibition cases exclusively, judges to be assigned from the regular calendar, with substantial judicial appointments to be made by the President and confirmed by the Senate, as heretofore, such appointments to be non-political in character.

In this connection it is suggested that the President appoint a **non-political standing committee of 12 prominent citizens, to act without pay, to pass on candidates before their names are sent to the Senate.** The President would

submit to the Senate only names approved by the committee.

The judges in the suggested circuit should be authorized to sign all withdrawal permits for alcohol or its by-products embraced within the meaning of the Prohibition Act, the judge to be sole arbiter in granting such permits, but required to co-operate with the federal district attorney of his district, if the latter from his records finds reason to recommend that the application be not granted.

The federal district attorney's staff should be increased to the same degree as the judiciary and specially assigned to the prohibition court.

Increase Pay of United States District Attorneys

The salaries of district attorneys should be radically increased, as the present standard of $1,800 a year does not tend to attract the right type of lawyer.

Select United States commissioners with greater care, ignoring political expediency.

Abolish the fee system now in vogue for commissioners and institute a fixed salary commensurate with the office of commissioners. The fee system has encouraged commissioners in the practice of creating individual hearings in cases where many defendants are involved in the same violation. This permits of multiplying many times the $5 fee for a hearing. **Prohibit commissioners from officiating in any of their office duties outside the regular hours assigned for commissioners' hearings.**

Let the prohibition enforcement bureau **take over the entire control and supervision of boats and crews** engaged in preventing the landing of liquor. **Increase the wage scale in this service,** deploying boats and crews in the same manner suggested for field agents.

Increase the personnel of the border patrol and raise the wage standard for that service.

Compel owners of warehouses and proprietors of other buildings used for the storage of merchandise to submit the names of customers and character of goods stored, when-

ever the owner of the said storage house has knowledge of the fact that the stored merchandise is liquor. **Enact legislation to hold such owners liable for omitting to report the presence of liquor,** and penalize them for such violation by padlocking or confiscating the building.

Hold owners of docks or other landing places permitting their docks to be used for the landing of smuggled liquor responsible to the law, and, on conviction, penalize them by loss of property or padlocking.

No "Private Speakeasies"

Eliminate, through legislation if necessary, the private character of night clubs and speakeasies, which permits them to select customers and prevent "undesirables" from entering. Open them like restaurants to the public without discrimination. Making the ability to pay for food and service the only necessary form of introduction would promote ease of access to agents making investigations.

Encourage chemists to experiment on formulas that could be used as substitutes for alcohol in hair tonics, patent medicines and other liquid compounds which are now manufactured to a great extent for the sole purpose of securing withdrawal permits and diverting alcohol through illegal channels and uses.

Institute a parole system in the federal courts, the breaking of a parole to be penalized by an automatic prison sentence.

STOP TAXING INTOXICANTS

A. D. Kirk
United States Commissioner, Louisville, Kentucky

I

RETAIN the National Prohibition Enforcement Act, commonly known as the Volstead Act, in its present form, generally, **without any amendment that may tend to relax or weaken the general force, or effect, or purpose, or scope, or extent, or spirit of the law, or of the constitutional Amendment.**

Any amendment that does not fit into the present scope and spirit of the law would doubtless require high judicial interpretation before its usefulness, if any, could be determined. No such thing is necessary, as the general scope and spirit of the law seem sufficient for the purpose for which it is intended. **There has been sufficient judicial interpretation and construction of the several provisions now embraced in the law,** to make the law reasonably well understood and workable in its present form.

II

Strengthen the enforcement law in its present general form, **by providing a substantial prison sentence for every violation of it, in addition to the fines already provided for.**

Section 37 of the U. S. criminal code is frequently invoked as a means of enforcing the provisions of the National Prohibition Act. **By charging two or more joint offenders with conspiracy** under section 37 of the criminal code, such two or more persons may be punished by **substantial imprisonment for an offense against the prohibition law which may not involve more than one pint of whiskey or other intoxicating liquor.** On the other hand, a **single** individual may be found guilty of the possession or transportation of a quantity of intoxicating liquor as large as it is

practicable for one person to possess or transport, and yet the maximum punishment consists only of a fine of $500.

This is an inequity that shocks the conscience of the public and reacts in unfavorable sentiment against the constitutional Amendment that naturally results in making enforcement laws harder to enforce.

If the penalties for violations of the National Prohibition Act were made sufficiently severe, there would be no need to resort to a conspiracy charge under the criminal code for the enforcement of prohibition.

III

Withdraw the federal prohibition force from the field of petty police duty.

This is the field in which there is such widespread charge of graft and corruption. It is **from this field that the federal district courts have had their dockets so congested with petty prohibition offenses that these courts have been unable to function with the dignity and effectiveness commensurate with the true purpose of federal courts in the administration of justice.**

There are three general sources of illicit liquor supply:

(a) The unlawful importation or "smuggling" of foreign liquors into this country; (b) the unlawful diversion of legal alcohol to beverage purposes; (c) and what is commonly referred to as "moonshining," that is, the petty manufacture of illicit liquors clandestinely.

If the federal prohibition enforcement unit, which is the one agency best qualified to do so, should, in a fair measure, cope with the first two of these illicit liquor dispensaries, it would seem but fair and reasonable that the **several states and municipalities could and should be relied upon to attend to the other.**

This would **put the federal prohibition enforcement unit upon a higher plane.** It would charge that unit solely with the matter of coast and border line protection against the invasion of foreign liquors and with the protection of in-

dustrial legal alcohol, to the extent of seeing to it that it is not diverted into illegal channels. Both of these activities would be high and effective forms of service in the matter of protecting the several communities against large alcohol supplies, and should thereby enable the municipal police officers to devote their attention effectively to such petty violations as flow from the clandestine operations that originate entirely within the several respective communities.

That would operate to **restore as fully as is necessary the idea of local self government.** It would **put an end to the confusion that exists by having two sets of officers** scattered throughout the several communities with similar police duties and one set relying upon the other **for service that is not effectively done by either.** That is to say, if municipalities understood that they must rely upon their own officers for municipal policing against petty offenses concerning intoxicating liquor, **these several communities could, and undoubtedly would, demand of their respective municipal officers a more effective enforcement.**

Where municipal communities and municipal courts broke down in this respect, the federal courts would be available and open to aggrieved citizens, and federal officers would be easily available for the rendition of the necessary service in such cases.

The high penalties suggested for violation of the federal prohibition act would operate with a tendency to **force public sentiment to keep the municipal officers and courts functioning properly in the enforcement of state and municipal laws.** A few convictions each year from each community in federal court, carrying **substantial prison sentences, would be vastly more effective** than many convictions every year in federal court which involve petty penalties of fines as low as $50 to $100, sometimes as low as $25.

IV

Afford effective relief against the excessive charges for medicinal liquors.

A pint of whiskey in the average rural community, including fee for the prescription, costs from $5.50 to $7.50. Rarely would any similar quantity of medicine cost more than a fourth as much. This high price for medicinal whiskey affords a fairly plausible excuse among people of poverty for the keeping of small quantities of illicit liquor in their homes.

There is no valid basis for levying taxes against medicinal liquor **other than such taxes as are ordinarily levied upon other common medicines. Nor should physicians be permitted to charge excessive fees for prescriptions.** Both the high liquor tax and the excessive prescription fee tend to a diversion of what should be medicinal liquor to beverage purposes. There is a strong temptation to take so much of the supply of liquor as is supposed to be pure and free from the dangers that attend illicit liquor, and place that supply of good liquor out of the reach of the average poor person for medicinal purposes, so that those with more money can have the better liquor for beverage purposes through diversion.

V

Repeal statutes such as Section 3244 R. S., 1001 paragraph 12 Revenue Act of 1918, 701 and 900 Revenue Act of 1926, Section 35 of the National Prohibition Act, **insofar as they impose taxes and penalties upon intoxicating liquors for beverage purposes**; or impose such taxes now only as additional penalties for violation of the National Prohibition Act.

The payment of a tax implies an idea of legitimacy and license, which should **nowise enter into the unlawful traffic in intoxicating liquor.** The original idea of tax upon intoxicating liquor was based upon the fact that liquor was regarded as a luxury. It should no longer be so regarded, legally. It should **have no legal recognition, except as a medicine and as an element of industry and of religious sacrament.**

The matter of taxation furnishes a serious handicap to the courts. As it is now, many persons who realize that they

are caught in the violation of a criminal law would like to plead guilty and thereby seek the mercy of the court, thus saving a good deal of difficulty in the matter of law enforcement. But, if, to do so, a person simply furnishes an inescapable basis for the imposition of taxes and penalties to be recovered in civil action, the hindering effect of tax enforcement on criminal prosecutions becomes apparent at once.

If the congested condition of the court dockets is continued much further, we may reasonably expect such ineffectiveness of the courts as enforcement agencies as will substantially result in making the law ineffective.

Of what effect are fine provisions of the law if these fine provisions may not be effectively enforced in the courts?

VI

Under no circumstances give consent to the exportation or importation of intoxicating liquors.

Exported liquors cannot be controlled after exportation. Imported liquor is not needed in a country that is well able to manufacture all the liquor that is necessary for the purposes that the government is willing to allow.

I believe public sentiment would support these adjustments. **Prohibition enforcement is passing into the hands of qualified persons under civil service regulation.** As it does so, the suggestions outlined above, should aid in bringing about effective enforcement of the 18th Amendment to the Constitution of the United States.

ELECT SYMPATHETIC OFFICIALS

Fred L. Kistner, United States Commissioner
Wilsall, Montana

PROHIBITION can and will in time be made effective. Here is my solution in a nut shell:

Place enforcement in the hands of its friends.

Give the Department (Treasury) having jurisdiction credit for what it has done, but take it out of there and place it with some other department, preferably the Department of Justice.

Give it a fair trial and see what happens.

The recent election proves that we want prohibition, and **the plan of enforcement laid down in the Volstead Act can and will work to the satisfaction of the vast majority.**

NO CHEESE-PARING ECONOMY

Frank Lee
United States Attorney, Muskogee, Oklahoma

NO law can be effective if not enforced. This plan, therefore, **contemplates such firm and rigorous enforcement as to secure not only respect but absolute obedience without radical change in our judicial system.**

It also contemplates **no discrepancy as to punishment because of wealth, poverty, station or influence.** Rich violators and poor violators to receive the same treatment whether in fines, behind the bars or on the same rock pile.

The three co-ordinate branches of government—legislative, executive and judicial—must be employed in the plan here submitted.

10 Changes in Law Proposed

Our National Prohibition Act as it stands is the first gesture of Congress in giving effect to the Amendment. It has accomplished much good. In some respects it is inadequate to meet emergencies or to dispense impartial justice. A fine only is imposed for possession of intoxicants whether the quantity be a half-pint or a car load. **The rich pay, the poor go to jail. Such discrepancy in punishment has created wide-spread criticism.**

That penalties may be apportioned with exact justice and the Act strengthened it should be **modified and amended** to effect the following results:

Warrants to be allowed and authorized for the purpose of **searching all buildings** in which the law is being violated.

Punishment for violating any provision of the Act should be by fine or by imprisonment for not less than 60 days nor more than one year, or by both such fine and imprison-

ment. This would permit prosecutions by information without the delay incident to procuring indictments.

Internal revenue laws to remain in full vigor.

The driving of motor cars by persons under the influence of liquor to any extent to be punished by fine and imprisonment.

The importation into the United States, or the interstate transportation of all intoxicants to be a felony.

The purchase of alcoholic drinks for beverage purposes to be a crime punishable by fine or imprisonment.

Padlocks Are Forceful Reminders

Any building wherein liquors are sold to be declared a nuisance and closed for not less than one year or for such period of time as the court may direct. The injunction features thus strengthened would create a wholesome respect for the law. Padlocked premises in districts notorious for habitual sales of liquor and other violations of the act are a forceful reminder of the penalty of the law. The promptness with which such proceedings can take effect aids materially in the betterment of law enforcement.

All vehicles used for transportation of intoxicating liquor to be condemned, confiscated and sold under orders of court.

All crimes now punishable by fine only, to include imprisonment, either in jail or in the penitentiary.

The law to be amended from time to time in the light of experience with a view only of increasing its efficiency and to facilitate enforcement.

Executive Changes Needed

The enforcement to be in the hands of faithful, sober, honest and energetic officers under the Department of Justice.

Those at the head of departments or in charge of districts should have a staff well organized. Their records for efficiency not to depend exclusively on the number of arrests and convictions, but upon the morals, the sobriety and

prosperity of a people, the **fruit of official diligence** in law enforcement.

The agents in the field should be men of affairs, acquainted with the traits and habits of law breakers, and with some **previous experience as peace officers.** They should be men of judgment, with good common sense, and willing to **co-operate with citizens and officers** in team work looking to the good of the service. **The traffic in strong drink is allied with all criminality,** and the **suppression of vice generally** will aid materially in prohibition enforcement.

Choose Enforcers for Efficiency Only

In addition they should be **in sympathy with the law,** and willing to face danger, hardship and exposure in the discharge of duty. The appointment of such agents to be made **without regard to politics and only from the standpoint of efficiency.**

The matter of expense to be a secondary consideration. In order to secure the best service available, officers should receive adequate compensation.

Cheese-paring economy tending to impair the service is but another form of nullification of the Amendment. Appropriations wholly inadequate to enforce the act must of necessity impair, if not destroy, the Amendment by indirection.

In demanding enforcement the government **should be willing to pay the price.** No arbitrary rule should be fixed as to the number of officers to be employed or the territorial extent of their operations. This can be determined by departmental discretion. It would depend largely upon the co-operation rendered by state officials, by the density of population, by the lawless condition of communities, and the extent of resistance to enforcement generally by a spirit of anarchy and defiance to government.

Court Changes Needed

The **federal bench,** however in sympathy with the law, **has little time to devote to the trial of prohibition cases.**

When the law was enacted the courts were crowded to capacity with civil and criminal litigation. By this act they were taxed with an additional burden which they were unable to bear. **No provision was made for more judges or for sufficient judicial machinery.** As a result the dockets are crowded and it has been impossible to secure speedy trials.

Inferior Tribunals

To make the law effective, **offenders must be brought to justice without delay.** Congress should avail itself of the constitutional authority to **create inferior tribunals.** The congested condition of federal courts generally is ample proof of the necessity for an act of Congress authorizing the appointment of **more judges** or the **creation of other courts.**

The judges should hold office for a limited time, **subject to removal by the President,** and with **adequate compensation.**

They should be learned in the law and appointed in like manner as other federal judges.

The jurisdiction of such courts should be restricted within designated districts and to offenses within the purview of our National Prohibition Act, over which **they should have exclusive jurisdiction.** This would include injunctive proceedings, conspiracy and the condemnation of material and machinery used in violation of such Act.

The time and places for holding court to be determined by legislation and by such orders as the respective judges may see proper to make.

They should have authority to **empanel grand juries to the end that indictments may be returned against second offenders, conspirators, and those charged with offenses designated as felonies.**

Stop Final Delays

Delay in the trial of cases and **technicalities** are the **greatest obstacles to law enforcement.** An independent judiciary thus created could dispose of all cases with dispatch. Jus-

tice would not be defeated by delay and technical errors which do not affect substantial rights.

The result would be such a wholesome fear of the law as to insure obedience.

Conclusion

The scope of the plan above outlined contemplates nothing unconstitutional or any departure from legal principles with which our country is familiar. Such plan includes certain changes in our National Prohibition Act. The Act is thus strengthened and enlarged. Emphasis is placed upon the necessity for increased penalties where no adequate punishment is provided. Experience has shown that **severe punishment is necessary to secure proper enforcement and to inspire respect for the law.**

The importance of having able and efficient officers, agents and executives is also emphasized. Each man holding a commission from the government should have such requirements.

In view of the congested condition of the dockets in the federal courts this plan contemplates new judges and new tribunals that cases may be terminated with absolute justice and without delay. To the end that the law will prevail and **the 18th Amendment become effective even as any other portion of the Constitution of the United States,** this plan is respectfully submitted.

RETURN TO WHOLESALE EDUCATION

District Judge Louis Lightner
Columbus, Nebraska

I

THE essential features of my plan can be stated simply and are suggested by the present state of affairs and the past history of the temperance movement in this country. The reason many states and lesser communities voted dry prior to the 18th Amendment and the reason the 18th Amendment was finally adopted by so overwhelming a majority is that **for decades earnest men and women, realizing the evils of intemperance, created by propaganda and education a sentiment against both drinking and the saloon.**

This movement for temperance was given a powerful impetus by the attitude of business leaders. **Men who controlled billions of dollars and hundreds of thousands of men, notably the railroads with nearly 2,000,000 employees, enacted positive and drastic rules against intemperance.**

These forces gradually built up **an almost universal sentiment** in this country in its favor. Thousands of traveling men and other employees formerly addicted to drink became outspoken against it.

The present partial change of sentiment represents **only the natural reaction against so sweeping a measure combined with the general antipathy to restrictive measures engendered by the world war.** It has gained more headway than it otherwise would because **the advocates of temperance, placing too much faith in the adoption of the 18th Amendment, rested on their oars and relaxed their efforts.**

The way to make the 18th Amendment effective is to **return to the policy that led to its adoption.** What is required is **propaganda and education to swing the sentiment the other way again, to make friends for the law.**

In the meantime every possible effort must be made to enforce the Volstead Act and the laws of the several states. **No radical changes in existing laws are necessary or advisable,** but I will recommend a few minor changes.

II

It must be plain of course to everyone that a movement of any kind can be spread only by its friends and this of course holds true of the liquor laws. It is the zealots who give strength to a movement and the thought at all times of these zealots should be the winning of friends.

The main argument against the liquor laws is that they curtail a man's personal liberty and unwarrantably interfere with his right to eat and drink what he pleases. However, no one will seriously contend that the use of a substance should be permitted that causes murders, assaults and batteries; crimes against women; accidents; that results in idiotic children being brought into the world; that causes all kinds of misfortunes and catastrophies, despair and suicide; that is an indispensable vehicle of prostitution. The opponent of the 18th Amendment often cares little for alcohol as such, but shows a child-like resentment because it has been taken away from him. **It is the age-old longing for the forbidden fruit.**

III

Both the duty and the oath taken by officers require them to enforce the law and **seldom indeed is it that a citizen will countenance failure of officers to enforce even laws in which the citizen himself does not fully believe.** And if it is the duty of an officer to enforce the law, how inexpressibly reprehensible it is for him in his private capacity to violate it!

How hypocritical for a judge on the bench to sentence the particular bootlegger before him if he has a private stock at home purchased from a bootlegger or even if by drinking with friends he has encouraged such friends to patronize bootleggers.

Any one who takes upon himself the obligation of holding public office should observe the laws. In no case can anyone possessing the slightest honor accept remuneration from his fellow citizens as an officer and himself violate the laws which those same citizens are paying to have enforced. If he does not have the integrity to observe the laws of his country he should have the manhood to resign.

IV

All government rests in the last resort upon the use of force and no law can be enforced except by use of force. Therefore in addition to the pacific measures above referred to resort must often be had to force, but as in enforcing other laws it should be left almost entirely in the hands of the agents of the government. Detectives, stool-pigeons, buy-men, "booze-hounds" are necessary because private citizens interested in enforcement cannot ordinarily get the evidence. It seems to me that more men of this kind are necessary but they must be high class men.

In addition **there must be raids** by sheriffs, city policemen and other regular officers where the evidence is sufficient to point almost unmistakably to the place as one where the law is violated.

An effective form of force is the padlock, orders of abatement and injunctions. Capital is notably timid and as soon as the owner of property realizes that the property may be closed, because his tenant is violating the liquor laws, it will add to the other means of enforcement the powerful assistance of capital.

If padlocking is useful, complete confiscation is even more so, but real-estate is never confiscated, only personal property. Automobiles, ships, etc., used in the traffic may be confiscated.

The property rights in the instrumentality of transportation is completely destroyed in some states so that even the innocent holder of a mortgage loses his lien. But **this is too drastic.** It causes justifiable resentment. It is contrary to the golden rule and should be eliminated. The

Volstead Act, more humane in its provisions, does not permit the destruction of the property of the innocent.

V

Sometimes private persons must resort to the use of force in connection with the prohibitory laws. What course is open to an honorable man when liquor has been sold or given to his daughter, son, sister, brother or other person close to him and for whom he is more or less responsible? There is a righteousness that transcends human law. Your daughter cannot be made the easy victim of the seducer and you stand idly and supinely by. It is the time for an expression of crude physical force. On such an occasion it is right. I will go further and say it is your duty to personally confront him who has so rudely and unlawfully interfered with your rights and attempted to corrupt those who are dear to you, and shatter his self complacency by such violence as you are capable of. It is cowardly to shrink from the use of physical force under such conditions.

VI

In stating my plan I have not discussed changes in the Volstead Act or in the laws of the several states because in general they are adequate. They are comprehensive and almost drastic. Most of them provide fine or imprisonment for the first offense, fine and imprisonment or imprisonment for the second offense, a term in the penitentiary for the third offense. The punishments are sufficient as a deterrent, almost severe and there would be few violations, except for the state of public sentiment which encourages rather than discourages violations. Most juries will return verdicts of guilty even at present and a sentiment for enforcement will affect juries as well as the public at large for a higher per cent of convictions. There are also the provisions for padlocking, abatement and injunction. It is scarcely possible to suggest improvements in either national or state laws, but **laws which impose a course of conduct as do the liquor laws are not self enforcing, but**

depend for their enforcement to a considerable extent upon the sanction of the people themselves.

VII

The so-called liberalizing of our prohibitory laws by permitting beers and light wines will not make the 18th Amendment more effective. Such liberalizing is generally opposed by temperance people and a measure of that kind would greatly weaken their support. There is no sufficient showing that the use of alcohol in any quantity except as a medicine is necessary or beneficial. Such proposed modification would give an apparent approval to the use of alcohol. It would put an inconsistency into the law which in the long run would destroy its effectivity, for in the final analysis the logical will prevail over the illogical. Furthermore, such provisions would add to the methods of violation, and make more difficult the control.

VIII

In my judgment **there should be no enlargement of the right of search and seizure and no invasion of homes.** There is some abuse along these lines already, especially in the states which hold that the evidence is admissible no matter if secured unlawfully. The United States courts will not permit the use of evidence unlawfully obtained and some states follow them but others do not. The right of search and seizure and the invasion of private homes are drastic and dangerous remedies that will always be resented by a free people unless sparingly and carefully used.

IX

This concludes my suggestions except to summarize and to add several specific recommendations, some of them referred to above and all included within the scope of the title:

(1) Continuation by all individuals and organizations interested in making the 18th Amendment effective of education and propaganda relating to the evils of the use of intoxicants.

(2) **At least one sermon per year by all ministers and**

priests who are so minded on the evils of the use of alcohol but containing no reference to politics or candidates.

(3) **Compulsory courses in the public schools** to teach the detrimental effects of alcohol.

(4) **Constant vigilance,** both as to candidates for office and officers and determined opposition to everyone not an outspoken friend of the law.

(5) **The establishment of at least one national institution,** either by a government or by philanthropic individuals or organizations where that class of offenders against the liquor laws may be sent who require not punishment, but a cure, **said institution to have a research department** to investigate effects of the uses of alcohol and publish them.

(6) **General retention of present laws,** both national and state. Constant agitation in states not having laws for the passage thereof. Repeal of unjust provisions permitting confiscation of the property of innocent lienors.

(7) Inasmuch as the United States district courts are overworked, **the establishment of an intermediary court** just below the United States district court for trial of liquor cases without a jury except when a jury is demanded and a struck jury in such cases, expense to be guaranteed by the demandant and costs to be paid by losing party. Such courts to be open at all times and defendant to have right of appeal therefrom to United States district court.

(8) **Rules by all employers who believe such a rule would be beneficial, against violation of liquor laws of state or nation by employees.** It is not an invasion of an employee's personal liberty or an unwarranted interference with his rights to compel him to obey our laws. **Such rules will have greater force if also observed by the employer and his family.**

If the above plan is criticized on the ground that it presents only the obvious I will answer that it is very often the obvious that is overlooked. General Grant won the Civil War by doing only the obvious, after his predecessors had failed with their more intricate and pretentious but less practicable plans.

STRICTER ACCOUNT NEEDED OF COURT PRACTICES

William B. Lymer
Judge, United States District Court
Honolulu, Hawaii

THERE is only one remedy for the existing wide-spread non-enforcement, or half-enforcement, of the 18th Amendment. That is: **for the President of the United States to be vested with, and actually to assume, direct supervision of the enforcement of the National Prohibition Act.**

This remedy could not heretofore succeed due to lack of public support. **Now it is entirely feasible. The result of the recent election is in effect a mandate** to the newly-elected President to direct the powers of his great office, so far as he lawfully may, toward securing enforcement of the prohibition laws.

The remedy for lax enforcement of these laws is **centralization of responsibility therefor under the direct supervision of the President.**

I shall present my proposal under two heads: I, what Congress should do: II, What the President should do.

I

What Congress Should Do

1. The act of Congress of March 3, 1927 (Pub. No. 751, 69th Congress), which created the Bureau of Prohibition under the Treasury Department, should be amended by Congress to **remove, entirely, the civil service requirements created** by that act.

Instead of requiring that all prohibition administrators and their enforcement personnel operating in the field (created under said act and regulations adopted pursuant

thereto) be civil service appointees, the law should provide (1) **that the Commissioner, with the approval of the President, appoint all Prohibition Administrators** (there are 25 in all) **free from civil service restrictions,** and (2) **that said administrators appoint their own employees and subordinates at will; full power of discharge at the pleasure of the appointing officer** to be provided in both instances.

This is not a reactionary step. A return to the old, venal, political-favoritism appointments (that were the rule before the civil service laws were made applicable) is not here advocated.

Seek Enforcers of National Proportions

Let the civil service limitations be now removed in order that our new President (swept into office by a wave of moral feeling) may assume, at least for some few years, **direct personal responsibility for an aggressive, non-partisan, high-minded enforcement of this law.**

Under the original law, all appointments were political; under the present law, all administration is bureaucratic. **Let all appointments now be based on ability and character, and the administration of the law be under the President's personal supervision.**

Why should the Commissioner be hampered, as at present, by being required to appoint as prohibition administrators only civil service "eligibles?" We do not wish for these positions men of the civil service stamp—well-meaning, fairly honorable, of a certain type of mediocre ability.

What we need are leaders of national proportions. If men of the caliber of Hoover or Hughes would undertake this work, it is apparent that the enforcement of these laws would be placed at once upon a high and efficient plane. And while men of such super-fitness as those mentioned may not be available, it must be true that 25 men in America may be found—leaders of thought and action—who, for patriotic reasons alone, would consent to turn their high abilities to the task of assisting, for at least one presidential term, in the enforcement of the prohibition laws.

Such administrators will not sanction high-handed methods merely because breaches of the law are thereby shown to exist.

The administrators today are **either indifferent to the success of law enforcement or,** on the other hand, are of that **fanatical type which overrides the rights of the people in** attempts to secure convictions.

What we need for the next four years are enforcement officials of the highest type. The work will never be accomplished by civil service material.

Direct Chain—President to Enforcers

The amendments here advocated would result in **a direct chain of responsibility from the President** through the Secretary of the Treasury, Commissioner of Prohibition and prohibition administrators, and, through the latter officials, to the members of the enforcement squads—the men who have brought so much reproach and criticism upon the administration of the National Prohibition Act.

The shootings, the unlawful searches and seizures, the corrupt practices of members of the various enforcement squads, have been the greatest obstacles to proper law enforcement. The prohibition administrators must have an absolutely free hand in appointing and discharging these agents.

It has happened in innumerable instances that an administrator had a strong personal conviction that an enforcement agent was corrupt, but he lacked the definite and necessary proof on which to found charges against such agent before the civil service commission. The administrator in every such case should have **the power arbitrarily to suspend and, if necessary, discharge such suspected employee.** In this way, only, will there be dependable loyalty in the organization and an efficient enforcement of the law.

The power of direct appointment (and discharge) of subordinates always increases efficiency, always promotes loyalty within the organization. Civil service provisions are merely a safeguard against political spoilsmen. There is no

danger, for the present, that the chief magistrate of the nation will "play politics" with the law-enforcement machinery at his disposal. **The people now expect personal—not bureau—leadership.** They are ready for it. And the law should be so amended as to place prohibition enforcement directly within the control of the nation's chief executive.

Better Pay, Better Attorneys

2. Congress should **raise the salaries of the United States attorneys**—thus ensuring abler men in these positions—and **provide more generously for their operating expenses, so universally inadequate.**

3. Congress should, further, pass a special appropriation providing a fund (say $600,000 per year) **to be expended by the President** (1) in meeting emergency needs arising in connection with prohibition enforcement, and (2) for salaries, and for travel and other emergency expense, of certain additional assistants to the Attorney-General, whose duties are discussed below under II (3).

II

What the President Should Do

1. In selecting his Secretary of the Treasury and approving the appointment of a Commissioner of Prohibition, the President should consider only men ideally fitted to assist in building up an organization able to enforce the prohibition laws.

2. He should induce 25 of the ablest, most conscientious, most aggressive, fairest minded, most tolerant, most thoroughly incorruptible men in America—**men of national stature**—to accept appointments as the 25 prohibition administrators now provided for by law. Men as near the type of Hoover, Hughes, Root, Owen D. Young, as can be found.

3. He should appoint as **additional assistants to the Attorney-General,** 20 men (appointment of whom would be authorized by Congress under I, 3 *ante*) who would in fact be the President's **personal emissaries,** to travel over the

country, assisting the United States attorneys in prosecutions of breaches of the National Prohibition Act, **paying especial attention to localities where enforcement is lax.** But one should appear at least once a year in every district. Their disinterestedness, their zeal to afford fair trials, their ability, their examination of local jurors, pressing on judges correct and illuminating instructions to juries, their persuasive, compelling arguments, **would go far**—much further than the layman dreams—**to educate entire communities in respect for all law.**

This recommendation (in conjunction with I, 3 *ante*) is of supreme importance. These special emissaries of the President (to be appointed with as scrupulous care as the prohibition administrators themselves) will **within six months effect an absolute and striking change in public sentiment in increased respect for law and law enforcement.**

Perhaps the President (who will have full control of the appropriation provided) will be compelled to pay these 20 appointees $18,000 to $20,000 per year. What of it? After all, an expenditure of $600,000 per year is as nothing when compared with the economic and moral benefits that will be insured by the adoption of this plan.

Hold Judges Accountable

4. Through the Department of Justice and through the special assistants to the Attorney-General last referred to, **the President should keep closely in touch with the conduct and attitude of federal district court judges in relation to these laws, and hold them to a new and strict accountability.**

How, it may be asked, under our institutions, is it possible to attempt to "hold to a strict accountability" these judges whose absolute independence of outside influence must be safeguarded? This question is not without force. Yet it is unhappily the fact that in this one field (i. e., the enforcement of the National Prohibition Act) **these judges are prone to a serious laxness and seem lacking in a correct sense of their responsibilities under the laws.**

I assert, with deliberation, that **the inferior federal courts**

frequently permit a defendant's lawyer in a prohibition case to overstep where such latitude would not be tolerated in any other case.

Improper questions, bringing into the case matters not at issue and intended to appeal only to passion and prejudice, are freely allowed.

Lawyers are permitted to argue entirely outside the record in making vicious attacks on prohibition enforcement agents, appealing to prejudice and sympathy, "the enemies of justice" (25 Fed. (2d) 357), with the result that many unwarranted acquittals are had.

Refusal of these judges, also, to give instructions, illuminating and helpful in holding jurors to their oaths, is all too common.

And an attitude of leniency towards offenders of this particular stamp may often be discerned.

How, then, can these abuses be corrected? Simply by taking a stricter account of what transpires in these courts, and, upon a report by the local United States attorney or by one of the special assistants to the Attorney-General (referred to under I, 3 and II, 3 *ante*) to the federal Department of Justice, the offending judge will be admonished and, in extreme cases, summarily removed by presidential order.

Of course, removal may not be had without a hearing, but it is the prerogative of the President to remove a federal judge for misbehavior. By co-operation between the Department of Justice and the chief executive this serious obstacle to law enforcement can be overcome.

It is not too much to hope that, within a year from the initiation of this very proper method of surveillance, the tone of the criminal trials in all inferior federal courts will have become what it should be and must be if the 18th Amendment and the provisions of the Volstead Act are to be satisfactorily enforced.

Re-define "Intoxicating"

In conclusion, I suggest that careful consideration be given to the possible amendment of the Volstead Act, to contain a **more liberal definition of "intoxicating liquor."**

If two and one-half per cent of alcoholic content were permitted, this would allow beer and very light wines to be manufactured and sold.

If the best thought of the country approves this step, it would, in my opinion, **lessen a certain quite substantial and not unreasonable opposition to the law,** which lessened opposition is always desirable and of appreciable importance from the standpoint of law enforcement.

But scrupulous care must be taken that this be not the entering wedge for the return of a modified saloon. Let there be no "beer gardens" or "beer saloons" allowed where the "treating" habit will be permitted to reappear.

Substitute Enforcement for Apology

The economic benefit which has been derived from the present laws is almost solely attributable to the eradication of the public saloon. I do not recommend the sanctioning of beer and light wines—only that this possibility be considered and discussed with the best thought of the country.

The main purpose to be kept in view is: that **no longer may our people and our officials be apologists for this law:** all must co-operate aggressively and sincerely for its honest enforcement. This may be done **if our President is given the power and the means (as above proposed) to dedicate his personal leadership to the solution of the problem of law enforcement.**

BACK COMPETENT AGENTS

A. W. McDaniel, Prohibition Agent
Laurel, Mississippi

PRIOR to the addition of the 18th Amendment we had to deal with illicit distilling, transporting, selling and failing to pay government taxes as required.

To take care of this situation the internal revenue statutes were made the law **and practically all violations of these were made a felony.**

Under these it was a felony to manufacture illicit liquor, to transport liquor on which taxes had not been paid, to possess liquor on which taxes had not been paid and to sell liquor on which taxes had not been paid. On appeal cases since the passage of the 18th Amendment the Supreme Court has held the internal revenue statutes are still in force.

When the Constitution of the United States, the highest and supreme law of the land, was amended to prohibit liquor, and the law must needs be strengthened rather than weakened, what happened?

Volstead Act Helps Bootleggers

The Volstead Act was passed, **undoubtedly an act fostered by the wets to protect the moonshiner, rum-runner and bootlegger. Laws already needing to be strengthened were weakened. Felonies were made misdemeanors.**

Under this Act a moonshiner can make one quart or 1000 gallons of liquor and **receive only a fine and jail sentence.** He can transport any quantity of liquor **without affecting the penalty.** He can sell in any quantity **without affecting the penalty.**

Under the internal revenue statutes all vehicles used in the transportation of liquor were to be **confiscated.** The Volstead Act fixed it so that they could be **released.** This was done apparently to protect the innocent lien holder, but

it has been proved in many instances, where the rum-runner had a fleet of autos, that a confederate held a lien in order to protect the cars. Thus the purpose of the law was defeated.

Disrespect for Law

Disrespect for our laws and courts can be **directly attributed to the Volstead Act. And to court officials** who are not in sympathy with the 18th Amendment.

There was a time when every man dreaded to answer to a charge in federal court. Why? Because the courts dealt severely with offenses against the government.

After offenses against the prohibition laws were made a misdemeanor our **federal courts were reduced to nothing more than police courts, though often there is more dignity connected with and more respect for the police court,** especially so where the United States judges and district attorneys are not in sympathy with the law and that is more often than the general public thinks to be the case.

In the wettest spots, where offenders should be dealt with more severely, I have known federal judges to give what is known as **"bargain days." Then, if the offender will enter a plea of guilty, a minimum penalty will be imposed and the greater part of that suspended.**

Cases Sacrificed for Statistics

Many cases are settled with the district attorney before being called in court. Most district attorneys try for 100 per cent convictions and many will dismiss any number of counts and accept a plea of guilty to the least count in order to show a conviction on the record.

Second and third offenses which carry a heavier penalty are entirely ignored by some attorneys for the government.

District attorneys are not bound by the charges of the prohibition agent. I have known cases where the agents worked for considerable time and spent much money to make a case against an old offender. After completing an A-1 case, where the offender had violated every section of the internal revenue statutes, taking it before the United

States commissioner and filing charges under the internal revenue statutes, they saw the district attorney **ignore the charges,** file a bill of information under the Volstead Act and **accept a plea of guilty to the least count** under that Act **and dismiss the other counts!**

The agent's testimony is given no more consideration than that of any other witness. .He more often finds that **the counts he is called on to testify to are entirely different from the ones he filed** before the commissioner, due to the whim of the district attorney!

The attorneys who take liquor cases, with few exceptions, **indulge in much intimidation and vilification of government agents,** in order to discredit the agent before the juries. The agent is not permitted to resent any of this, and must remain silent because he is a government official and must act with the dignity due the government. Some judges do not allow this insulting procedure but **such judges are few.**

Agents Must Advance Funds to the Government

Agents spend their own money in making cases and paying expenses. This is refunded by the government at the end of the month or as soon thereafter as the accounts can be checked.

An agent usually has his money tied up for 40 to 60 days, often several hundred dollars, and it does not bear interest.

Often a number of items are disallowed and the agent must stand this loss.

I know an agent who received notice of a disallowance, because he purchased five gallons of whiskey at $3 per gallon in order to make a case. The offender was operating a distillery on a large scale and selling in large quantities only. He preferred to sell 50 to 100 gallons, but could be persuaded to sell as little as five gallons. In some sections one quart of whiskey would cost as much as five gallons did in this instance. To purchase the quart would be all right, but the disallowance was said to be because of the "large quantity" purchased in making the case, even though every drop must be accounted for. The agents are instructed to

devote their time to the larger offenses and the agent did so in this instance and lost his money.

Many larger cases could be made against dealers who sell in quantities of 100 gallons and more, but an agent seldom has that amount of money to advance for 40 or 60 days and keep up other expenses too, and the government does not advance money to him. The liquor dealer knows this and the ones who play safe deal in quantities beyond the limit of the agent's cash.

Prohibition agents should be **placed under bond** and **furnished with sufficient funds** with which to carry on the work and make worth while cases.

Striking Differences in Two States

In some sections, where the majority of the population insist on the enforcement of the law, the courts operate under the internal revenue statutes. In other sections, **where the majority of the population are opposed to enforcement, and for that reason the courts should be more severe,** they operate under the Volstead Act. This condition might well be illustrated by comparing the states of Arkansas and Louisiana.

In Arkansas the internal revenue statutes are used. Offenders, upon conviction, are sent to the federal penitentiary.

When one sits in the court room he does not have to be reminded that respect is due the court.

The district attorney is fighting every inch contested.

The United States marshals have control of everything under their command.

The district attorney co-operates with the prohibition department and the marshal's office.

The United States marshals co-operate with the district attorney and the prohibition department.

The prohibition department co-operates with the district attorney and the marshals and it is like one family.

Cross the line into Louisiana, which is one of our wettest states and more in need of enforcement, and there the courts operate under the Volstead Act.

No co-operation here. The prohibition department recommends that certain cases be prosecuted under the internal revenue statutes. The district attorney says "No" because the judge has told him that he would not recognize cases filed under the internal revenue statutes.

An assistant district attorney asked the prohibition agents to make fewer cases, because they made too much work for the attorney's office and the docket was too crowded with cases.

Distilleries in Living Rooms

Some courts hold that when a distillery is placed in a residence it ceases to become a residence and becomes a place of business. This view should be made the law and made so that government officers could enter and inspect and search, the same as they are required to do with the licensed distilleries.

If the law isn't so made, any person can place a distillery in his living room, **within full view of the officers and public and so long as he sells no liquor from the premises it cannot be entered.** The liquor dealers know this and such a case came under my own knowledge.

Make Courts Uniform and Penalties Compulsory

Too many judges are not in sympathy with enforcement to be allowed their own discretion in fixing penalties. **I have even heard judges in their charges to grand juries apologize for the prohibition laws.** This should be prohibited. If a law desired by the majority of the people doesn't meet with the approval of the judge he should hand in his resignation rather than criticize the law.

I have known judges to **render decisions directly contrary to decisions handed down by the Supreme Court.** This should be prohibited and in doubtful cases **the district attorney should be compelled to appeal the case.**

Many district attorneys are afraid to act, for fear they will incur the displeasure of the judge. **Acts should be passed compelling the district attorney to do certain things, so that the judge could offer no criticism.**

Prohibition administrators, deputy prohibition adminis-

trators and narcotic agents **should be required to report any failure to act on the part of the judge or district attorney.**

Make All Violations of Liquor Laws Felonies

If it was a felony under the internal revenue statutes to possess five gallons of liquor on which the tax had not been paid when liquor was allowed, it should be a felony to possess any amount of liquor in a day when no liquor is allowed.

Malts and Extracts

Before prohibition there was little or no malt extract on the market. Now there is an enormous amount of baking done, according to the amount of extracts being sold. I have assisted the government chemists in testing hundreds of bottles of home-brewed beer and much tested as high as 12 per cent alcohol. A beer that in the old days was called the "ladies' beer," tested three and one-half per cent. It was clean, well made, wholesome beer and satisfied the desire of all who liked beer. Today the concoctions made in the home are **unsanitary and often filthy and should be prohibited.**

Wines Are To Be Obtained

There are a number of so called "grape juice companies" who are placing on the market a product claimed to be pure unfermented grape juice when it leaves the factory or storage place.

Agents and salesmen for the companies will tell you how to knock the bungs from the kegs or barrels and how long to let the grape juice stand exposed to the air before replacing the bung. Any flavor can be obtained such as port, Burgundy, etc.

The representative will tell you that he can supply you with labels, caps, etc., to represent any brand of foreign or domestic wine you wish and that he will call again at the proper time and bottle the wine for you if you wish.

Many reliable concerns are placing grape juices on the market **with the proper amount of preservatives to prevent fermentation** and wouldn't it be more logical to compel all companies to do likewise?

Medicinal Liquors and Sacramental Wines

Medicinal liquors and sacramental wines should be **taken out of the hands of the drug stores.** Most druggists objected in the beginning that the druggists were being made the saloon keepers and bootleggers. Some welcomed the opportunity and we must admit that it did make bootleggers out of some druggists and doctors of medicine as well.

Government Should Handle

Liquor dispensed for medical and sacramental purposes should be dispensed by the government, through federal buildings or post offices.

This would not be an expense because the profit now made by the druggist would be sufficient to pay the government costs.

This would prevent the kind of doctor, who signs all prescription blanks in his book and turns them over to the druggist, from doing so, and the doctor who gives "Bill Jones" half a dozen prescriptions in as many different names from doing so.

Then when a drug store was reported as bootlegging, it would be bootlegging and a corps of permit men and agents would not be required to so determine.

Unless Law Changes, Farce Will Continue

Enforcement under present methods is a farce. It was when I entered the service, is today, and will be in the future if methods are not changed.

The agents are doing their part. Cases are well made, and plenty of them.

The trouble is apparently with the courts and the courts may be doing the best they can with the present laws.

If so, let us **repeal** the Volstead Act, **strengthen** the internal revenue statutes and make **penalties compulsory.** This can only be done by our legislative bodies, and **until it is done our government is wasting about $13,000,000 yearly.**

REACH THE BUYER

Judge Frank McDonough, Sr.
District Court, Denver, Colorado

AMEND the Volstead Act in the three following respects, so as to carry out the intent thereof, as declared in Section 12, to wit:

> "All the provisions of this chapter shall be liberally construed to the end that **the use of intoxicating liquor as a beverage may be prevented.**" . . .

A

No person, association or corporation **shall keep or have in his possession, for personal use or otherwise, any intoxicating liquors,** on any premises owned or controlled by him. or give away, or furnish any intoxicating liquors to another (except for medical and sacramental use, as is provided by law.)

B

No person, association or corporation **shall purchase, solicit for purchase, order or buy** from another person, association or corporation, or acquire in any manner, for personal use or otherwise, any intoxicating liquors, except as may be provided by law.

C

Any person, whether acting in his own behalf or as the agent, servant, officer or employe of any other person, firm, association or corporation, who shall be the owner of, or who shall operate or knowingly have in his possession any still used, designed or intended for the manufacture of intoxicating liquor, **shall be deemed guilty of a felony and upon conviction shall be punished by imprisonment in the penitentiary for not less than two nor more than five years, and in all cases of conviction the offender shall pay the costs of prosecution.**

Argument for Proposed Amendments

A. This is a copy of the Colorado statute which makes possession an offense. **It tends to discourage possession and use, treating guests in the home and familiarizing youth with intoxicants.** It is in precise accord with the declaration in Section 12 of the Volstead Act, of purpose to discourage "the use of intoxicating liquors as a beverage." What this proposed amendment lacks in force is supplied by the next proposed amendment.

B. Pierre S. DuPont has recently said, upon page 5 of a pamphlet issued by the Association Against the Prohibition Amendment:

> "Nothing could be clearer than the expressed intent to forbid all transportation of intoxicating liquor in order to prevent their introduction into the human stomach. Notwithstanding this unmistakable meaning, the Amendment did not forbid either the purchasing, the receiving or the drinking of intoxicating beverages."

Here is a challenge, which should be met, as to what is lacking in the present law. Amendment B, when considered, revised if necessary, enacted and applied to present conditions, would, in connection with Amendment A, supply what is lacking in the present law.

C. This amendment has been found **quite effective in Colorado and other states, in discouraging the manufacture of intoxicants.** A violator is charged by indictment or information, in three counts:

(a) As owner of a still;

(b) As possessor of a still;

(c) As operator of a still;

and thus may be convicted upon one or the other ground. The operation of this law has had a tendency to rid residences and other places in cities and towns of the maker of intoxicants, and reduces the number of violators materially.

General Argument

W. C. Durant has wisely said that "**the major issue in our country is the problem of law enforcement and obedience to law.**" He has only epitomized in that statement what is now and has been throughout the centuries the problem of the ages.

The ten commandments, and all criminal laws, are largely prohibitory in nature, yet they are and have been disobeyed by some people, unwilling to be governed by law, and today they **are not fully enforced or respected; but shall we abolish them?**

The prohibition of the African slave trade was approached by the fathers of our Constitution in 1787 when they put legislation into the Constitution of the United States (although objection is made to the 18th Amendment as legislative in character) in Article 1, Section 9, subparagraph 1:

> "The migration or importation of such persons as any of the states now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808."

When the legislation was enacted prohibiting traffic in slaves upon the high seas, there were men so mean, so vile and so greedy for gold that they continued to violate the law. **It took the navies of Great Britain and of the United States and a civil war between our states to end slavery. Nearly eighty years elapsed before that result was accomplished.**

It is not ten years since the 18th Amendment became the law of the land. Human weakness on the one hand and human cupidity on the other resist the normal operation of the prohibitory laws; **but shall we repeal any law because there are lawbreakers?** Why not repeal the laws against robbery and burglary? Those laws are obnoxious to some of our population.

"Personal Liberty"

Why not repeal other laws which interfere with or restrain the exercise of personal liberty, such as the national law against the traffic in narcotics, or the law of New York

which prohibits suicide, makes it a crime and punishes it accordingly?

The prohibition law has already fully justified itself as an economic, social and moral measure, imperfect as its enforcement may have been. Are its imperfections the fault of the law, or of human frailties?

The civil service status of law enforcement officials has just been gained. The next few years should demonstrate that with sincere and vigorous enforcement, free from political espionage, standards of enforcement of the law will be established upon a higher plane.

As Mr. Durant has well said:

> **"Big business leaders who have the largest stake in law observance, publicly and privately violate this law and countenance its violation by others. Instead of using their wealth and influence to create public opinion demanding law enforcement, our business men of character and position are the chief supporters of the master criminal class, the bootlegger."**

The time has come when men who lead us in great affairs should realize that they set bad examples, as masters of finance and business, when they sacrifice the law for a drink, which is stating "the problem of law enforcement" as Mr. Durant calls it, in its baldest terms. These men demand from labor and others obedience to the law. What law are they talking about? Is obedience to law of a selective type?

Punish Buyer Also

Is it not high time that we all unite in creating a public opinion, which shall hold the one who creates the demand for intoxicants equally guilty with the bootlegger?

One who receives stolen goods has violated the law as much as the thief.

One who persuades another to commit a crime is held equally guilty in law as an accessory.

Why should not the alleged good citizen who purchases

intoxicants and causes another to violate the law be held equally responsible to the law as well as the bootlegger?

By the vigorous enforcement of the nuisance provisions found in the Volstead Act (Sections 33 and 34) and enforcement against the still owner and inclusion of the purchaser, who creates the unlawful demand, there will be a better observance and enforcement of the law.

Without introducing a partisan view of the recent election, it may be successfully asserted and established by the result, that the people of the United States are a law-abiding and respecting people. **Had the result been contrary to what it was, it would have been proclaimed by the antagonists of the prohibition law that such result was in the nature of a referendum.** May it not be successfully asserted that the result obtained was a referendum favorable to the **prohibition law?**

The prohibition law needs but little amendment, and that to strengthen it. We have not dealt with the matter of penalties; but **penalties should be increased for second and subsequent offenses.**

Where We Can Get Help

The press. It seems to be a policy of the press, even where the particular organ expresses itself as favorable to prohibition, to permit accounts appertaining to the law, as to its enforcement and violations thereof, to be of unfavorable type, in head lines and reports. This is a subject to which the attention of the press should be called, so that its **reports should be impartial and not prejudicial to the law.**

Public expressions. The cheap comedian upon the stage, often of foreign extraction, who thinks he is humorous, often insults the intelligence and the prohibition principles of his audience. These public expressions should be stopped. The same might be said about public speakers who attempt witticisms against prohibition and enforcement of law.

Education. In schools, colleges and universities there

should be continued study of the effect of intoxicants upon the individual, the family and economic conditions.

Foreign elements. Foreigners ought to be instructed through their newspapers and otherwise as to the law of the United States with respect to intoxicants, and what penalties result from violation thereof. Printed instructions should be given to immigrants entering our ports, and all above the age of sixteen years should be required to make written application for admission pledging loyal obedience to our laws. In case of violation of our laws, such violators should be deported.

Publicity. Adopting the publicity methods used during the World War to sell Liberty Bonds and to secure enlistments, Congress should appropriate $1,000,000, or more, for bill board and newspaper advertising, including foreign newspapers, to inform all citizens as to the economic and moral advantages of the prohibition law, with direct appeal to the eye and the senses, as to the advantages of sustaining and obeying the law as loyal and patriotic citizens.

Organize to Support Amendment

As a medium through which the 18th Amendment, and all enforcement laws made by Congress and states might be carried out, new laws enacted and as a part of the plan to make said amendment effective, I recommend that Mr. W. C. Durant or a committee designated by him, organize a "National Association for the Support of the Prohibition Amendment," with directors and officers made up of leaders in business, banking, railroads, industry, labor and profession, who will finance such an association for five or ten years.

Such association should organize state auxiliaries. The object of such association should be to cause the adoption of so much of the foregoing plan as may be deemed practicable, as well as other ideas and laws, and to promote an active public sentiment favorable to the prohibition amendment and laws.

STOP OVER-LENIENCY BY COURTS

David T. McElliott
Lieutenant of Police, Great Falls, Montana

MISAPPLICATION of the federal powers relative to enforcement of the 18th Amendment to the federal Constitution has, during the past 10 years, or since enactment of the Amendment, to a large measure **neutralized the intent of the prohibition measure** and has made it **mandatory that the present enforcement policy be drastically revised or the prohibition amendment abandoned.**

Enforcement or abandonment of the 18th Amendment is a question that affects the entity of the nation, the national welfare and every community.

Observations based on service as a police executive impel me to believe that **not only must the present policy of enforcement be revised** but that **changes must be made in federal statutes** in order to meet existing contingencies.

Present federal statutes, based on existing methods of application, have **in no way deterred persons from engaging in the illicit liquor traffic,** but on the contrary **have served to attract numerous persons into this new industry,** which is now engaged in by a substantial percentage of the population.

Leniency has characterized the enforcement of the law and at the present time **in many federal courts small fines are imposed on persons who have repeatedly violated the prohibition law.**

In many other cases, **jail sentences have been imposed by courts, which, actuated by unknown motives, have suspended service of the sentences.**

During the infancy of prohibition in the United States many states organized state enforcement agencies. In far too many instances **these state departments not only hampered operations of federal authorities but through dis-**

regard of the public's civil rights bred general contempt for the prohibition measure.

This disregard for the prohibition law has increased with the years and as a consequence general disregard for all laws has in a measure resulted.

Violations of the 18th Amendment have been openly countenanced by men of character and influence, thereby placing the participants in the traffic in a position that by general conception fails to bear a public stigma.

Corruption Among Federal Officers

Corruption among members of the federal department has been known to exist and does now exist to an alarming extent. The prohibition department must itself be subjected to numerous changes. Under the existing conditions in which unfaithful public servants, persons guilty of malfeasance in office and convicted of offenses receive but little condemnation, enforcement is obviously impossible.

Correction of the situation may be had but only through a new policy and procedure. In order to solve this problem, the following plan is submitted:

1. Statutes must be amended to make violation of the Federal Prohibition Amendment a felony, and also to make it mandatory upon courts to impose prison sentences in the cases of all persons found guilty of manufacture, sale or illegal possession of liquor of an intoxicating nature.

2. Revise statutes in such a manner as to make residences or establishments in which liquor is sold subject to confiscation. Federal statutes now provide for the seizure of automobiles used for the illegal transportation of intoxicating liquor.

3. All intoxicating liquor seized by federal, state or municipal operatives should be taken in charge by some federal officer who should be required to produce this evidence in court if necessary. The present policy of permitting agents to report that liquor has been destroyed at the time of seizure permits placement of seized liquor on the market for consumption and promotes corruption of public officials.

4. **Sale of intoxicating liquor to minors should by federal law be made punishable by fines and prison sentences of a sufficiently drastic nature** to deter persons from making such sales.

5. Present statutes should be revised in order to **empower agents to make arrests at night as well as during the daylight hours. The existing statute provides loop holes** by which offenders may in most instances escape conviction.

Jail Unfaithful Enforcers

6. Regulations of the prohibition department should be such that **all unfaithful servants should not only be subject to dismissal but subject to heavy prison sentences,** thereby providing a method of correction commensurate with the offense.

7. The selection of operatives of the enforcement department should be given most careful consideration and **only such men appointed as have reputations for honesty and whose integrity is beyond question.** These officers should be placed under **suitable bonds** in order to assure proper performance of duties and should receive **sufficient compensation.**

8. All members of the prohibition department should be men of sufficient character that no discredit can result to the department and **the policy of authorizing men to break the prohibition law in order to secure evidence against offenders should be discontinued.** This policy has in most instances received the condemnation of the public.

9. A system of **public education,** calling for enlightenment of the population, should be instituted with a view of **securing the co-operation of the general public towards enforcement of the law.** Only through instillation of respect for the law in the public can prohibition be made practical and the endangerment of the nation avoided.

10. **All enforcement agencies, federal, state and city, should be united** in the effort to combat the prevalence of violations of the Amendment.

(*Mr. McElliott wishes to acknowledge the co-operation of J. Edward Christofferson in preparation of this plan.*)

RE-EXAMINE ALL THE FACTS

H. A. McMullen
Formerly with United States Internal Revenue Service
Billings, Oklahoma

The Most Apparent Evils

1. The "It's no business of mine" attitude of many of the opponents to the Amendment toward its violations.
2. **Emboldened evil so widespread** as to have made the prohibition question, in some states, a political issue during the recent national political campaign.
3. Weak or perhaps **misplaced policing power.**
4. **Lack of severity** in the prosecution and punishment of the violators of the amendment.
5. **Local inactivity in co-operating** with the national enforcement officers.
6. The strong incentive offered, **by apparently good citizens,** in the illicit trafficking in liquor.
7. **The ease with which youths may obtain intoxicants.**
8. **The growing disregard for all law.**
9. **Failure to keep faith with our duty to posterity.**

The Diagnosis

Thorough-going investigation of the facts is needed by a body of competent citizens, best fitted for the undertaking by virtue of past achievements and their knowledge of affairs of state.

If available for a commission of this nature, select such men as the Chief Justice of the United States Supreme Court for his judicial mind of unbiased turn; the Secretary of the United States Treasury and the chief of the enforcement division for their knowledge of the matter to be considered; the Secretary of War for his intimate contact with the greatest policing power in the world; and Charles E. Hughes for his distinguished service in administering public office.

USE ONLY FEDERAL COURTS

John A. Mears
District Court, Portland, Oregon

"IT is altogether fitting and proper that this activity should be initiated by an automobile manufacturer, for **no right thinking man or woman will claim that booze and automobiles can be managed at the same time by the same person, and if either liquor or automobiles must go, it will not be the automobile.**"

1. Amend the Volstead Act, **creating an intermediate court** by enlarging the jurisdicion of the U. S. Commissioner's Court. The commissioners contemplated herein to be appointed by the United States district judges, to serve during the pleasure of the court making the appointment. The right of appeal should be provided to the present United States district courts in such cases only where penalty imposed exceeds one year in jail and/or $500 fine.

2. **Abolish the prohibition enforcing department under the Treasury Department** and provide in lieu thereof that the **United States marshal of each district shall perform the duties of enforcing the law,** allowing to each marshal at least 12 deputies in each judicial district, and with such additional authority vested in said marshals to **call on any peace officer** of a state or municipality to assist him in the performance of their duties; also providing a sufficient penalty for the failure or refusal of peace officers to render assistance when demanded by the United States marshal.

One Jury Trial Only

3. **Provide a jury trial of 12 jurors, with the right of women to serve on juries,** to be drawn from the regular district court panel.

When a jury shall have agreed upon a verdict of either acquittal or conviction, such verdict shall be deemed to be a full compliance with the right of trial by jury and shall be a bar and preclude a second jury trial should the action be appealed to the United States district court.

The entire enforcement of the 18th Amendment **should be placed in United States officers** in all states, territories and municipal subdivisions thereof, and no state, county or city court should be permitted or allowed to render judgment in such prohibition cases or in any way relating to possession or sale of intoxicating liquor, the manufacture thereof, possession or operation of still, worm or mash till such case or cases shall have been determined in the United States court as herein provided.

An order of **destruction or retention** should be made in every case disposing of all evidence seized or used in cases, the defendant to have right of appeal in "destruction" cases, even though he might be acquitted of the principal charge.

4. The judges of each judicial district in the United States and territories **shall appoint at least one commissioner for each county or other political subdivision** of a state or territory and **as many more as may be necessary or expedient** to handle the work of that particular district.

5. The salaries should be the same as are now or may be hereafter paid to commissioners and deputy United States marshals and be paid in the same manner.

The Attorney-General and the various United States district attorneys should constitute the legal department under the plan above contemplated.

Statement of Proponent

It is generally conceded **that it is the lack of co-ordination as well as co-operation among the various law enforcing branches of the states and cities with those of the United States,** that causes much of the alleged breaking down of the operative section of the 18th Amendment.

The conflicts in the jurisdictions of the several courts have been the cause of many mistrials and miscarriages of justice.

Escape Local Politics

Matters affecting the laws and Constitution of the United States should be handled and controlled by the United States courts, and **be thus removed from the influence and**

control of local political activities. It is in this way that many governmental activities such as bankruptcy matters have been made effective and are in successful operation.

This plan would **relieve the congestion in the United States district courts,** many of which courts are now acting as magistrates of limited jurisdiction.

Effects of Wilson Veto Persist

It is to be remembered that the Volstead Act was passed by the Congress over the veto of President Wilson and that **all of the operating machinery of the government was under the control and owed allegiance to the influence which brought about the veto and were therefore more or less antagonistic to the enforcement of the Volstead Act.** Many of the enforcing officers being under civil service are still so disposed. It thus appears that **officers opposed to the liquor laws are engaged in the enforcement thereof.**

MORE JUDGES, MORE AGENTS

R. Q. Merrick
Prohibition Administrator
Virginia, South Carolina, North Carolina

MY recommendations are made after 23 years of continuous service in this same line of work, an experience in efforts of enforcement which extends from New York State as far south as Florida and as far west as Wisconsin, Illinois and Missouri.

I shall first state why prohibition has apparently failed. I shall then give the remedy.

Why National Prohibition Has Apparently Failed

1. **Inadequate appropriations by congress.** A force of only 2,400 agents has been expected to enforce the National Prohibition Act in the United States, Alaska, Hawaii and Porto Rico whereas the City of New York has been provided with 15,000 policemen.

2. **The congested condition of the United States court dockets.** The National Prohibition Act gives concurrent jurisdiction to the states and **the majority of the states have dodged their responsibility** and have "passed the buck" to the federal authorities and **thereby turned the United States district courts into police courts** until the present court machinery cannot take care of the cases brought by the federal prohibition agents.

Official Handicaps

3. **A heavy handicap to prohibition enforcement is indifferent and antagonistic judges who give all the "breaks" to the defendants, criticize the officers, and after a conviction is procured impose a ridiculously light sentence which makes a travesty of justice.**

4. **United States attorneys have been appointed who were not in sympathy with the law and the proper efforts for conviction were not made.** Notorious offenders have been brought into court charged with the whole category of offenses and the United States attorney has accepted **pleas of guilty on one of the minor counts** (say "possession") and nolle prossed the other counts, thus letting the defendants get off with small fines. **Any plea of guilty** is ordinarily accepted in order to clear the docket.

5. **A small percentage of prohibition agents have proved dishonest** and the "wet" press has played this up until some of the public have begun to believe that no prohibition official or agent can remain honest.

The Remedy

1. The present appropriation for the Prohibition Department is $13,000,000. I recommend **not less than $50,000,000** which would increase the force of field agents to about 12,000 or about five times the present force.

I know in my present district of Virginia, North Carolina and South Carolina, **I could practically stop violations** of the National Prohibition Act **if I had five times my present force** of 80 men. I have 246 counties in the three states to be policed by 80 men and they **can only scratch the surface.**

Repeated calls from good citizens for the assistance of officers cannot be complied with because my force is inadequate.

More Judges and Prosecutors

2. **The present force of federal judges should be increased three times,** which would give me in this district 21 judges for three states.

It would be a **waste of money** to increase the appropriation for the Prohibition Department **unless** a corresponding increase was given to the Department of Justice to provide additional federal judges, United States attorneys, assistant United States attorneys, United States marshals and deputy United States marshals.

The present force of prohibition agents, inadequate as it is, is making more cases than can be disposed of in the federal courts which are, at present, available.

Only Dry Enforcers

3. The President in selecting federal judges for appointment **should be able to find lawyers who are in sympathy with the prohibition law.** The same care should be taken in the appointment of United States attorneys as is taken in the selection of prohibition officials. They should be **personally and politically dry.**

Congress has gone a long way toward solving the problem of honest prohibition officers by putting the Prohibition Bureau under civil service regulations. No man can be certified for appointment for any position in the prohibition department **unless his record is absolutely clear.** No matter how good a prohibition officer may be, his **good work counts for nothing if the United States attorney is hypercritical and is not willing to prosecute the cases submitted to him.**

One Change in the Law

I would recommend that the following change be made in the law which would provide for more effective enforcement. The act of March 3, 1925, provides that any vehicle forfeited for violation of the National Prohibition Act or the customs laws may be turned over by the court on request of the Secretary of the Treasury to the Prohibition Bureau or the customs department for official use. I would recommend that this act be amended to read that any vehicle forfeited for violation of the National Prohibition Act, customs laws **or internal revenue laws may be turned over for official use by the court, etc.**

At present the majority of the vehicles seized in a great many districts are seized under section 3540 of the internal revenue laws in preference to section 26 of the National Prohibition Act for the reason that a conviction under the former carries a much heavier sentence than a conviction under the latter.

More than one-half the cars forfeited are seized under the internal revenue laws but these cars under the law as it stands at present must be sold at auction and may not be turned over to the department for official use. The act of March 3, 1925, should be amended to that extent.

Where Conditions Seem Hopeless

In some localities prohibition is fairly well enforced at present, but in some "wet" centers conditions seem almost hopeless. I have mentioned the handicap under which I work in this district comprising three of the dry southern states. When in charge of prohibition enforcement in the states of New York and New Jersey for two and a half years, up to September 1, 1925, I had 260 enforcement agents under my supervision and during the calendar year of 1924 I recall that we made 14,000 arrests for violation of the National Prohibition Act. Only a small percentage of these cases were ever disposed of in court, **the rest dragged along and a great many were finally nolle prossed.**

The United States attorney who was sworn in in New York City in March, 1924, **gave me orders to make no arrests** and to a great degree I had to comply with his request although there was no state law and enforcement was a farce.

From New York I went to Chicago where I found conditions almost as bad.

These conditions can be remedied **if sufficient court machinery is provided** to take care of the cases brought into the courts by the federal officers, and **if the present force is increased five times I believe the country as a whole can be given almost perfect enforcement.**

Law Never Had A Chance

The law has not failed and can be enforced but it **has never had a fair chance** and the handful of prohibition agents distributed throughout the United States and her possessions is not sufficient to run down the violators who

have taken advantage of the indifference shown toward enforcement by the individual states.

Permissive Feature

The Prohibition Bureau is charged with the supervision of all industrial alcohol plants and breweries manufacturing near beer, and also the druggists who sell whisky on prescription and the doctors who prescribe whisky for medicinal purposes. The regulations for this supervision may be improved on from time to time as abuses may develop which need further restriction, but **as a whole the permissive feature of the law is good.** With an increased appropriation as recommended, **more inspectors could be provided for closer investigations of permittees and under proper supervision, the law cannot be violated.**

How More Judges Would Help

The present federal judges here are required to hear all cases for violation of all statutes of the United States Government. A recent case in South Carolina extended over a period of six weeks in the trial of a bank case. **Had this six weeks been employed in the hearing of prohibition cases, the docket would have been cleared.**

If three judges were employed where we now have one, the two additional judges would be able to devote practically all of their time to the hearing of prohibition cases and I feel would be able to take care of all cases made by the force of agents as recommended.

The solution of the whole matter is **more court machinery** and **sufficient appropriations** to provide for at least five times as many men as we have at present.

EXAMINE CARGO CONTAINERS

Mikkel Mikkelsen
Officer in Charge, Coast Guard No. 189
Norfolk, Virginia

AS a matter of fact it will be impossible to clean up entirely as disobedience to prohibition laws must be regarded like disobedience to any other criminal law. Improvement will, therefore, be all that can be expected.

Strictly conscientious prohibition agents should be employed and any one found to the contrary should be dispensed with.

Energetic work should be required of all prohibition officers, night and day.

The writer is and has been employed by the U. S. Coast Guard since December 1925. I have patrolled our coast from north to south and know that **very little liquor, if any worthy of notice, is reaching our shores from the sea direct.**

Liquor can, however, be smuggled into the country by various ways difficult to control.

Ships coming from other countries with case cargoes, for instance, can have liquor stowed away in the interior of the cases or boxes, regardless of the contents marked outside to the contrary. In order to guard against this, every case or container must be opened. The same applies to liquid in barrels, jars or the like. **Each container will have to be examined,** and the mere description outside should not be depended upon.

Use the Marines

In my opinion General Butler exercised a strict control in Philadelphia during his assignment to prohibition enforcement and I think the marines could do excellent service in regard to the enforcement of the 18th Amendment.

The marines have been called upon at various times in order to enforce obedience to laws, not only in regard to political controversies (China, Nicaragua, etc.), but at any place where crimes were desired abolished, as for instance, guarding mail trains, and in my opinion the marines could do very satisfactory service in the enforcement of the 18th Amendment also.

The writer is an ex-marine, a licensed master for the merchant marine, has sailed the seven seas, and is familiar with ways and means of securing cargoes and also of transporting them, and I feel confident if the points I have outlined in this letter be followed the liquor traffiic will be minimized to a great extent.

I have seen perfume bottles marked a special kind of perfume that contained first grade alcohol. There are many ways to get liquor shipped into the country.

Expect Improvement, Not Perfection

But after all, **are not prohibition laws complied with to about the same extent as all other criminal laws?**

I am reading the "Daily News" at intervals. This paper gives an illustration of suicides in the boroughs of New York alone since January 1928, and up to the present time, by autos, guns, poison booze. Suicide is a crime in New York. Leaving the autos out of the question we get the number of deaths self-inflicted up to October 12, 668, and for New York alone. What will the number be for the whole United States? I wonder what the difference would be if we compared the above with the crime cases under the 18th Amendment for the same period. **Probably the 18th Amendment is kept up comparatively to a better degree of satisfaction than any other criminal law,** if we investigated the matter.

THE WINNING PLAN

By Major Chester P. Mills*
Former Prohibition Administrator, Metropolitan District
New York

ANY plan logically carried out and energetically pushed to a definite conclusion is better than no plan at all. Unfortunately, except for the Coast Guard, the federal agencies charged with enforcement have never adopted any one plan and carried it through.

There is no necessity for, nor can there be tolerated any violation of an individual's personal rights in enforcing the law, but there can be no leniency shown the individual regardless of his political, social or financial standing, who enriches himself by wilful disobedience of law.

The agencies of enforcement must keep the public fully informed as to their policies and aims and so conduct themselves as to obtain and keep the respect of all classes.

The Volstead Act

The Volstead Act was well conceived and well written. Its provisions are capable of enforcement with few if any legislative changes.

The governmental agencies charged with carrying out the provisions of the Act were not well organized originally and had little conception as to the scope of the work necessitated and the responsibility placed upon them. To this failure may be attributed most of the difficulty now being encountered in proper enforcement.

The Act authorized a continuation of the use of commercial alcohol, redefining the statutes then in force.

Commercial alcohol was again divided into two classes,

* After the award, Major Mills was allowed to rearrange his plan and expand it slightly, in the interest of clarity.

(1) completely denatured alcohol, considered poisonous and not capable of redistillation, (2) specially denatured alcohol, rendered unpalatable and unfit to drink but suitable for manufacture into many articles and **capable of redistillation.**

Manufacture of grain alcohol and its conversion into completely denatured and specially denatured alcohol; whisky for medicinal purposes and manufactured into tonics; wine for religious use and manufactured into vinegar and tonics; the manufacture of beer—all were to be controlled by permits or privileges issued to reliable persons by the government.

In the rush to put the provisions of the Act into effect **these privileges were granted without proper caution;** result, there are **still large numbers of such permits in the hands of lawbreakers.**

Diversion of alcohol and liquors under cover of indiscriminately granted permits controlled by unreliable persons provides the vast majority of liquor consumed today. **The task of restricting and reducing permit holders to those reliable persons or corporations conducting a legitimate business is the main problem in enforcement.**

The agencies of enforcement must keep the public fully informed as to their policies and aims and so conduct themselves as to obtain and keep the respect of all classes.

Outline of Plan

With the above in mind I submit a plan to make the 18th Amendment effective and shall discuss this plan under four headings: (I) Permissive, (II) Enforcement, (III) Political, (IV) Detailed Method of Controlling the Diversion of Industrial Alcohol.

I. Permissive

The issuance of permits is a privilege conferred upon individuals or corporations by the federal government and **it is not only the duty but the right of the government to inquire thoroughly into the reliability of the individuals or corporations asking this privilege.**

This inquiry should be conducted along lines similar to

that conducted by a bank when extending loan privileges. **Past business experience** of the persons, their moral, social and financial standing, the **probability of a legitimate market for their goods,** the soundness of their organization, must be thoroughly determined.

In addition, before a permit is issued to any person who desires to manufacture from liquids containing alcohol, there should be obtained a consent from him providing that he will in writing **inform the government through its local administrator as to the time and place where he proposes to manufacture.** This notification must be in sufficient time to allow the local federal administrator to send representatives to supervise the manufacture. Failure on the part of the permittee to give this notification should automatically stop future withdrawals.

Permits when issued should be temporary, not longer than six months' duration, so that local administrators may have further opportunity to determine the legitimacy of the business proposed and the responsibility of the individuals concerned. If such time proves the applicant responsible and legitimate, then a permanent permit may be issued.

The control of the permissive phase is a most important factor. **If the issuance of permits is in future restricted solely to legitimate and responsible individuals,** gradually the present illegitimate holders of government permits can be eradicated.

Local Administration

Local conditions make it imperative that the local administrator be responsible for the issuance of permits and for their revocation in case of illegitimate handling. **It is impracticable for the central government to become sufficiently familiar with local conditions to allow it to intelligently pass upon applications for permits.**

II. Enforcement

Enforcement logically divides itself into two groups: (1) imports and (2) domestic supply.

1. After a bad start the Coast Guard has proved that the

importation of alcoholic beverages can be suppressed. Statistics show that **under 2 per cent of the liquor consumed is imported.** I do not mean that this traffic has been eliminated. There are numerous instances along our borders and in the waters of Florida where importation exists. It can be overcome, as the coast guard has demonstrated, by unceasing vigilance and patrol.

Closer co-operation between the Coast Guard, customs and prohibition forces is essential to eradicate this smuggling. The improvement in the last few years has been so marked that the policy of operation now exercised by the Coast Guard has vindicated itself and should be continued.

2. **Domestic enforcement resolves itself into the suppression of stills and of diversion under permits.** This domestic supply is the source of better than 98 per cent of liquor consumed and is therefore the essential factor to control.

For control the country is organized into prohibition districts conforming to the judicial districts of the United States. This zoning is satisfactory and creates an organization capable of administration.

Local Sources Determinable

Local conditions in each district vary. **In one the supply of illegal liquor may be entirely derived from stills;** in another the great source of supply may be diversion under cover of permits. **In each district the source of supply of illegal liquor is clearly determinable.** The plan of enforcement should recognize this and **treat local conditions so as to insure the suppression of local sources.**

The central federal agency charged with enforcement should **secure from each district a detailed account of the sources of illegal liquor supply for that district.**

It should **have each district formulate a plan for the suppression of these sources.**

Statistics should be prepared **for each district** showing graphically and by figures the movement into consumption of all liquids containing alcohol from each of these sources.

These statistics corrected monthly **should show what has been accomplished** towards control of each source.

Local Publicity

An essential is that the sources for each district be publicly made known by the central authorities and by the local administrators; this publicity must be as extensive as possible.

In addition, the monthly statistics compiled must be given the same publicity so that various organizations now existing, such as the law enforcement committees, the Anti-Saloon League and others interested in the law, can check their correctness and the accomplishments of the enforcing agencies.

III. Political

Lincoln said, "Let reverence for the laws become the political religion of the nation."

Let the President proclaim himself on the subject.

Let him also inform his subordinates (the prohibition administrators) that patronage and political interference tending to influence the acts of the administrator in controlling the permissive phase must not be tolerated. Such political interference is one of the serious handicaps to the effective control of the permissive phase.

IV. Detailed Method of Controlling Diversion of Industrial Alcohol

To more clearly define the above plan and to bring out its effectiveness, I shall be concrete. The second federal prohibition district comprises the southern and eastern judicial districts of New York State. The sources for this district are clearly defined as follows: alcohol, whisky, wine, beer, stills.

With respect to alcohol, we have to deal with (1) alcohol manufactured by distilleries and denatured at the distillery, (2) alcohol denatured at independent denaturing plants, (3) denatured alcohol diverted by organizations holding permits to use it for manufacture.

Diversions under the first class are comparatively small. The large distilleries which manufacture grain alcohol are in the main responsible corporations, highly financed and

owning large quantities of valuable real estate. Their business is profitable and clearly defined. Their loss in case they are detected violating the law is so tremendous that it is a great deterrent and nearly insures legitimacy. Strict supervision should be kept over those distilleries and a strict accounting kept of their manufacture and distribution of the manufactured product.

Independent Denaturing Plants

The independent denaturing plant has no economic place in business and here there may be necessity for legislative change in the Volstead Act. If a Treasury Department regulation cannot eliminate the independent denaturing plant, then this result should be secured by legislative action.

The independent denaturing plant can secure grain alcohol from one source only and that is the distilleries authorized to manufacture grain alcohol. The independent denaturing plant has only two outlets for its manufactured products.

Completely denatured alcohol that it manufactures may be sold without permit, but is incapable of redistillation and absolutely unfit for human consumption. The present laws requiring this product to be labeled as "poison" are drastic enough to practically insure its legitimate use.

The second outlet of the independent plants is supplying permit holders (manufacturers of perfumes, etc.) with specially denatured alcohol.

In both outlets the independent denaturing plant comes into direct competition with the distillery from which it purchases its initial supply of grain alcohol.

These distilleries are required to maintain denaturing plants and will not, as a rule, sell grain alcohol to a competitor at a price that will enable the competitor (the independent denaturing plant) to manufacture and compete with them.

The independent denaturing plant has no economic reason for existence. Since the independent plant cannot usually compete for legitimate business, it is often driven to make a living by delivering unlawful supplies to the bootlegger.

Diversion via "Cover Houses"

We now come to the very serious evil of diversion under cover of permits authorizing firms to manufacture from specially denatured alcohol.

The principal method of diversion may be **illustrated by an example.** A perfume manufacturer as a permit holder receives specially denatured alcohol, for whose use he must account to the government in records of perfume manufactured and on hand or shipped out.

The crooked permit holder pretends to ship his manufactured product to a wholesaler known as a "cover house." The wholesaler receipts for perfume but actually receives or diverts specially denatured alcohol for the bootlegger.

To disguise the transaction the "cover house" receives from the permit holder invoices and in many cases bills of lading. It acknowledges these invoices and even pays for them as well as acknowledging the bills of lading.

If the courts will not sustain the government in requiring manufacturers who use industrial alcohol to show such disposition of their products as to enable the local administrator to **trace these products to a legitimate dealer,** then we need another legislative change.

However, I believe that strict supervision of the manufacturing activities of these permit holders (manufacturers using industrial alcohol) and the requirement that they notify the local administrator in sufficient time to enable him to supervise manufacture, will practically eliminate their opportunities to divert specially denatured alcohol to the bootlegger. The finished manufactured product (perfume, etc.) is nearly incapable of redistillation, and is not extensively used by the bootlegger.

In March, 1926, the withdrawals by such permit holders in the second federal district were 660,000 gallons of specially denatured alcohol a month. By unceasing vigilance and supervision of the activities of these permittees their number was materially decreased and this volume was reduced within a year to approximately 351,000 gallons a month, a reduction of 309,000 gallons a month, **representing**

alcohol previously diverted into illegal channels. The remaining 351,000 gallons a month does not represent the legitimate use of this class of alcohol for the district, but it does show what can be accomplished by systematic supervision.

Cut Demand by Raising Price

In March, 1926, the cost of this specially denatured alcohol to the bootlegger was approximately $1.10 a gallon. By June, 1927, the cost of this same class of alcohol to the bootlegger had risen to approximately $5.20 a gallon. **As the source was suppressed, the cost of the product to the bootlegger rose.**

It is not unwarranted to state that as the use of this alcohol approaches legitimate consumption, its cost to the bootlegger will rise to such an extent as to **make it unprofitable for him to operate,** and when this point is reached **the solution of alcohol diversion** will also be reached.

The conditions of the Durant Prize Contest limiting the words to 2,000 forbid further examples. I selected the hardest and most difficult source of diversion to control, alcohol, but **each of the other sources—wine, whisky, beer and stills —may be as clearly defined and the method of control similarly illustrated.**

This plan is predicated on the sound economic theory that **when the cost of the product exceeds the capacity of the consumer to pay, the demand ceases.**

Therefore, this is the quickest and most economical way of suppressing the bootlegger and speakeasy.

COURSES IN LAW OBSERVANCE

Michael J. Murphy
Chief Corporation Inspector
Lawrence, Massachusetts

AT the present time I am chief corporation inspector at Lawrence, Massachusetts, and I am eighty years of age. I retire from active police work at the end of this year after fifty-three years of active police work, during which time I have served in all the positions from a patrolman pounding a night beat to the chief of the department.

For the past twenty years I have been handling the police problems for the large industrial plants located in this district. And during more than half a century of dealing with problems arising from crime I have had to study very deeply the effect of liquor upon human nature and I have observed and studied and given much thought to the 18th Amendment, and the best way to make this law effective.

To begin with, we hear too much nonsense about the evils of the 18th Amendment; and **not enough about the great good that the establishment of this law has effected.** If there is any person qualified to speak about the evils of liquor it is a police officer who has had to contend with the evils of the saloon and the effects of liquor upon human beings, men and women who were held in its grip. For 33 years I battled the best I could with this evil in my own community, and I was unsuccessful in doing any more than any other self-respecting policeman could do, and that was to try and make the liquor dealers observe the law. I could not prevent the unfortunates from entering the saloon when they were sober, though I knew only too well how they would stagger from the saloon after spending their hard earned money on drink. I could not prevent a man with a wife and several children from entering a saloon on a pay day with his week's wages in his pocket, although I knew

that he would not return to his family who needed his help until he had spent most of his pay in the saloon for liquor. **But the 18th Amendment stopped it.** The 18th Amendment **gave to the police the authority to handle the liquor traffic in a manner we old-time policemen never dared dream of 30 or 40 years ago.** It also put an end to the attractive signs and the freedom to secure liquor at every corner saloon. In other words the 18th Amendment, for the first time in this country, drove John Barleycorn to cover, and its problem is to make him obey the law.

Stop Thief!

Like all police problems, the enforcement of the 18th Amendment is a task that **calls for the assistance of all law-abiding, self-respecting citizens** of this country. One of the greatest helps to a policeman in catching a thief is the hue and cry of the outraged citizens yelling at the top of their lungs: "Stop Thief!" A handful of policemen attempting to enforce a law are of not much avail unless the good will and the public opinion of the community is behind them. **Give them a cheer instead of a jeer** is a good way to get results in police work, especially if the policemen are honestly attempting to enforce the law, and I am now speaking of honest policemen. Save your jeers for the dishonest one.

Now for the best plan to make the 18th Amendment effective. Like all difficult tasks, you must approach it armed with faith in your job, intelligently prepared for your task, and equipped with a solid foundation of common sense—the more common sense the better. And right here I must ask the police of the United States, and the citizens of this country as well, to call upon the greatest asset they have for the enforcement of law, the American school-teacher. **One school-teacher is of more value in enforcing the law than ten policemen. One schoolhouse is a better investment for the community at large than 20 jails.** The better the schoolhouses do their work, the fewer the jails. The better the school-teacher handles her job the easier the work of the policeman. The future of the 18th Amendment rests

with the way the American school-teacher handles her task.

And why should it not be so? Children are sent to school to learn that two and two make four; that B comes after A; that the Hudson River runs through New York state. **Then why should not the teachers hold up before their pupils the great need for law observance,** in fact why should not teachers hold up before their pupils **the difference between law-abiding citizens and law-breaking citizens?** Why should not teachers follow this through and show the contempt that decent people hold for law violators and also show the respect that follows law-abiding citizens who after all are the keystone to this great arch stretching from the Atlantic to the Pacific called our country?

Teach the Children

There is such a thing as right and there is such a thing as wrong. The great question to explain to the school children of this country—and to the men and women of this country—is **the necessity of obeying all the laws, not some of the laws, but all of the laws,** and this includes the 18th Amendment because it is a law. The men and women who enforce this law, and all other laws, should be held up as worthy of our greatest respect and assistance and good-will while in the honest performance of their duties. For the law-breakers, contempt. And that is the way that a wholesome public opinion is brought about.

Why should we allow the law-breakers to muffle us? Why should we cringe from teaching that law observance is necessary if this country is not to perish?

A law observance course should be installed in every school and college in this country. The course could be graded for the age of the pupils or students just the same as any other study. Children attending school for the first term do not get Milton or Shakespeare, but that does not prevent them from learning that c-a-t spells cat, and that early training prepares them later on to enjoy Milton or Shakespeare or any other author that they desire to read. In fact, they can never enjoy any author unless they first

learn to read, and the same law applies to this question of the effective enforcement of the 18th Amendment and of all other laws. Unless a child is taught—and it is surprising how much is left to and expected of school-teachers, and I speak as a policeman—the necessity of obeying the laws of this country, there is not much enjoyment ahead for that child and there is possibly a whole lot of trouble in store for the community that will have to suffer him.

And that, ladies and gentlemen of the W. C. Durant Prize Committee on the 18th Amendment, is the most valuable contribution that I can make after 53 years of active service as a policeman. Look to your schools and to your school-teachers to gain the proper respect and enforcement of this law. In the meantime, let the law-abiding citizens of this country give to the law-enforcing bodies of the city, state and nation their whole-hearted support and good-will.

Women Are Determined

In the meantime, remember this: the mothers, the wives, the sisters—in short, the women of this country—will not sit idly by and see John Barleycorn slip into his former position of power. The women of this country, and in all countries for that matter, are the ones who have suffered most from the brazen boldness and ruthless abuse of power exercised by the liquor interests. And from my own experience as a policeman for 53 years and from my contacts with policemen I doubt if you could find many of the old time officers, men who had to contend with the liquor traffic previous to the enactment of the 18th Amendment, who would want to see the 18th Amendment abolished. We have seen both sides of the case and we know which is the better side.

The 18th Amendment is what a policeman would call a sensible law. Liquor for medical and religious purposes, and to be distributed according to law, has been provided for. It would be hard to see where any school-teacher should hesitate to include this law in any law observance course. There are many, ever so many laws, which by their very nature few of us will ever be tempted to break. But

those laws that touch close to our business and social contacts are the ones we should be best fortified in. Again I say, look to your school-teachers to plant the first seed of law observance and through them have it nourished through the plastic period of school days so that the men and women of tomorrow shall be better prepared to properly value the worthwhile things of life.

Jails are built to punish offenders of the law, schools are built to instruct and educate. What this country needs is more education and then we shall rely less upon the virtues of punishment. **A man who has been educated and instructed so that his judgment and common sense leads him to obey the law is a much superior person to the man who is apt to obey the law while he is in fear of it. When the fear wears off, crime begins. With education and instruction judgment always holds full sway.**

Teach Foreigners

Into the great factories of this district the Americanization teachers enter and during the noontime period they teach the workers in the principles of American citizenship. **Another great opportunity for courses in law observance,** and wisely and well accomplished. At night, after work is finished, the Americanization teachers gather in their little groups of non-English speaking people and teach them the effectiveness of the English language, and **another great chance to raise the standard of our law observance work is presented.**

The industrial leaders of this district know the value only too well of the 18th Amendment. **Workers report on Monday now in full numbers, accidents are fewer, the banks report more savings deposits and the health rate is higher.** The teachers have some excellent material with which to show to their pupils the benefits of the 18th Amendment.

QUICKER PROSECUTION WITH BETTER MACHINERY

Thomas H. Noonan
Supreme Court Justice, Buffalo, New York

BY the 18th Amendment "the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes, is hereby prohibited." The second section provides that "the Congress and the several states shall have **concurrent** power to enforce this article by appropriate legislation."

To make this Amendment effective, Congress passed the National Prohibition Act (Volstead Act) and both the Amendment and the enforcement act became effective January 16, 1920. The first section of the Amendment is operative throughout the entire territorial limits of the United States, binds all legislative bodies, courts, public officers, and individuals within those limits, and of its own force invalidates every legislative act—whether by Congress, by a state legislature, or by a territorial assembly—which authorizes or sanctions what the section prohibits. **(National Prohibition Cases, 254 U. S. 350.)**

By this amendment **Congress acquired the same police powers** to stamp out the manufacture, sale and transportation of liquor in both interstate and intrastate commerce **that the states had before the Amendment. (U. S. v. Cohen, 268 Fed. 420, 425.)** In other words, by the Amendment, Congress acquired a police power to enforce prohibition by all reasonable laws and regulations which only the states had before the Amendment. **(Schnitzler v. Yellowley, 290 Fed. 849; Millstone v. Yellowley, 290 Fed. 855.)** Where this amendment conflicts with an older provision of the Con-

stitution, the older one must yield. So that the 18th Amendment, in part, supersedes the 5th Amendment. (Corneli v. Moore, 267 Fed. 456.)

Clear Law Plus Enforcement

Primarily, two things are necessary for the proper enforcement of any law. First, the law must be so clearly drawn that it can be effectively applied to suppress the crime; and second, it must be enforced by honest and capable officials.

By the clear language of the second section of the 18th Amendment, Congress and the individual states have the same power to make the 18th Amendment effective, and it is just as much the duty of the one as the other to enact the necessary legislation to make the Amendment effective.

Without doubt the most effective means of law enforcement lies within the state itself, because it is already organized to enforce all laws. There exists in every county in every state the machinery for such enforcement, and in most localities there are already sufficient police officers to properly secure the necessary evidence for successful prosecution. Furthermore, the law can be enforced in the county where the crime is committed without compelling witnesses and the prosecuting officials to travel great distances, and can enable the public opinion of the county to impress itself upon the enforcement officials; and the state law can prevent double jeopardy by providing that there shall be no state prosecution after a prosecution under the National Prohibition Act.

Quick Prosecution

To get satisfactory results in the enforcement of any law there must be quick prosecution and sure punishment. The dissatisfaction that has arisen in some parts of the country over the apparent failure of the National Prohibition Act to produce results is due, not to any defects in the statute, which was carefully drawn and is adequate for its purpose, but to the glaring lack of proper machinery for its enforcement.

1. There are **not enough federal enforcement officers** to gather the evidence and attend to the prosecution of the offenders arrested.

2. There are **nowhere nearly enough judicial officers** to dispose of the business that even the present number of federal agents are able to bring in.

3. The United States **district attorneys do not have the proper number of assistants** to adequately enforce the law.

4. **The salary provided for these assistants is not such as to attract young men of the right caliber.**

5. **Antiquated methods of procedure are still relied upon. Methods of criminal procedure that were adequate for the days of the ox cart and blazed trail are being relied upon in the age of the automobile and flying machine.** Outgrown rules of evidence that are no longer followed in the states are in effect in the United States courts, and enforcement officers and prosecuting attorneys are forced to travel long distances from the place of the crime to reach a tribunal that can properly dispose of their cases. Other defects could be mentioned but these are the most important ones.

Suggested Remedies

1. **Provide a sufficient number of enforcement officers** to properly cover the territory, especially in states that have large cities, and in those states that have no enforcement acts of their own.

2. **Provide a sufficient number of tribunals** for the trial of cases so they can be speedily tried and disposed of. This can be done by providing enough judges to hold courts, not only in the larger centers of population, but in the rural counties; and the United States commissioners might be empowered to try and dispose of all first offenders at the option of the United States district attorney. One or more could be appointed in every county and thus be within easy reach of the enforcement officers.

3. **A sufficient number of assistants** should be given each United States district attorney to enable him to prosecute effectively the cases arising in his district.

4. **The salary of such assistants should be such as to attract able and ambitious young lawyers.**

5. **Use all competent evidence, no matter how obtained.** This is the long standing rule in New York (**Peo. v. Chiagles, 207 N. Y. 193, 198**) and also in most of the other states, and was once the doctrine in the United States courts (**Adams v. New York, 192 U. S. 585**). As far as possible, make all acts of the defendant prima facie evidence of guilt. **Make the enforcement procedure as simple as possible. Grant no bail to second offenders when the previous offense is undisposed of through no fault of the prosecuting attorney.** Interpret the Constitution so as to aid in the prosecution of all offenders. **It was never intended as a shield behind which evil doers could find protection;** in brief, simplify and strengthen procedure for enforcement.

Perfection Unattainable

In judging the efficiency of the efforts to enforce the 18th Amendment, we should bear in mind that **there are very many violations of all criminal statutes that remain undetected and unpunished.** So perfection cannot be had in the prosecution of prohibition cases.

Remember also, that those who violate certain other United States statutes, such as the Dyer Act relating to stolen automobiles, the Cormack Act relating to stealing from interstate freight trains, and the Harrison Act to control the sale of narcotics, can also be prosecuted under state laws and are thus **subject to double jeopardy.**

To sum it all up: **The 18th Amendment can be made as effective as any other law, when all the states and Congress provide suitable laws and procedure and honest and competent officials to enforce the same.**

MAKE IT A FELONY

E. B. Palmer,
State Senator, Seattle, Washington

WHOSOEVER drinks, buys, sells, transports, manufactures or has in his possession intoxicating liquors shall be guilty of a felony.

IMPRISON LAX ENFORCERS

R. H. Pastorius
Sergeant of Police, Park Commission
Valley Forge, Pennsylvania

AFTER spending the last eight years as an officer of the law, and devoting a lot of time and study to the 18th Amendment, I beg to submit the following plan:

Now the 18th Amendment is a very good law but **has too many loopholes in it and there is too much guess work** about it to make its enforcement effective in its present form.

My first suggestion is that we have Congress **define just what percentage of alcohol constitutes an intoxicating drink,** instead of the present one-half of one per cent.

Secondly, I would suggest that Congress enact a law **making it a felony for any one to violate any of the provisions of the 18th Amendment or the Volstead Act.**

And after a person had been found guilty of a violation of either **make it punishable by a prison sentence of such duration that the effort would not be worth the risk.** The only way to get people to obey a law is to make that law severe enough to command respect for it.

Mandatory Prison Penalties

Instead of a fine or sentence as it is at present I would suggest that the **penalty for a violation be made a straight prison sentence of from one to three years for a first offense, three to five years for a second offense and five to ten years for a third offense.**

By doing this you would **leave the crooked or wet judge no other alternative but a prison sentence,** thereby eliminating the possibility of him being bought off or having political pressure brought to bear on him.

Punish Lax Enforcers

Thirdly, I would suggest that any one, charged with the enforcement of either of the above acts, found guilty of failing to carry out his part as defined by law, be punished by a prison sentence. This would eliminate a lot of the bribery that is practiced at present by those charged to enforce the law.

Fourth, I would suggest that all enforcement officers be made to take a rigid examination as to their moral, physical, and mental ability to carry out the duties assigned to them. Then I would make the salary large enough to attract the proper type of man. One of the worst evils of police work as I see it is the small salary connected with it.

There will no doubt be a number of people think that a prison sentence for taking a drink is too severe, but if it were not for the ones that drink liquor there would be no bootlegger or rum runner and we would not need the 18th Amendment nor the Volstead Law; so I think that we should make the penalty just as much for those that drink and encourage this type of lawlessness as for those that follow it for a livelihood.

Fines Not Feared

I know from personal experience that the one thing the bootlegger and rum runners fear more than anything else is the prison sentence. They do not fear a fine.

Now I think that under my plan enforcement can be brought about and this country can be made dry and safe for the coming generations.

WOMAN'S SHARE IN EDUCATING THE PUBLIC

Mrs. Henry W. Peabody, Chairman,
Woman's National Committee for Law Enforcement
Beverly, Massachusetts

THE whole question should be taken out of partisan politics. The country has a right to demand that this law be honestly enforced.

An eight year old law, however, like an eight year old boy, requires time for development. Considerable discipline and enforcement are needed before we can expect the best results in our great cities and so-called wet states. **We give a boy 18 to 21 years to attain his majority. This law may require even more time.**

Liquor interests are lawless today **as they always have been.** Bad example and constant propaganda are doing their utmost to undermine the constitutional law.

Notwithstanding this the law will not be taken out of the Constitution. **Already the Supreme Court has rendered 40 unanimous favorable decisions** in cases pertaining to the 18th Amendment and the Volstead Act. Congress is **83⅓% dry in the Senate at present, 75½% dry in the House.** The executive will be upheld by sufficient appropriations and by enactment of active and effective measures looking toward enforcement.

Some Reasons for Present Failure

1. **Certain state and city governments are in rebellion against the law.** They are too often in the hands of unscrupulous politicians.

2. **Special protection has been provided for men in office and those who pay for immunity from deserved penalties.**

3. No adequate attempt to meet this situation has been made by the federal government.

4. Men have been appointed in the nation and states to enforce the law **who do not believe in the law and are suspected of breaking the law.**

5. The Volstead Act is weak in providing **no adequate penalties for the purchaser who is in league with criminal bootleggers.**

6. There is evidently a **lack of co-ordination between the two departments of enforcement,** Treasury and Justice.

7. A **revision of laws** to meet new conditions is necessary.

8. **Investigation of certain courts should be made by responsible officials.** It is impossible to get convictions, either owing to the present lack of laws suited to these cases, or the laxity of judges known to be out of sympathy with the present law. **Abuse of the prohibition law, inadequate penalties, deferred punishment,** result in a miscarriage of justice.

9. **A false and dangerous propaganda on the part of the wet press** is responsible in large measure for the public attitude against a Constitution issue. This has aided toward **demoralization of public opinion and increase of lawlessness and crime.**

10. We have placed **the issue of prosperity before the issue of good government and obedience to law,** without which prosperity becomes a menace, not a blessing.

Education a Solution

The education should begin with officials, high and low, national, state and city. This involves revolutionary changes in politics which are responsible for much that is evil. Education of the people is also essential.

Some have endeavored to show that the present law is causing demoralization of youth. It is true, we have, as we always have had, "flaming youth." **We also have flying youth,** a new and splendid type which has a right to protection and education.

1. **"Begin with the child before it is born."** One generation of blood clean from alcohol would give us a new generation without handicap. One generation **trained in a new**

patriotism which includes loyalty to the Constitution would help mightily in the enforcement of law. Parents must face this question.

2. **Educate in the home,** by example and insistence on obedience. Parents must understand the dangers of broken law to health, to the mind, to the spirit, to the home itself, to the community, on the highways, on the railroads, in the air. Fathers, mothers and children should be taught the danger in the use of alcohol even in small quantities. It is a **habit-forming drug.** The habit is almost impossible to break after a man or woman has degenerated from its use. The will and moral sense, as well as physical stamina, are impaired.

School Courses in Public Morality

3. **Educate in the schools.** The beginning in the home should be followed by special training in every public school and high school under qualified teachers. Each community might well **employ a specially trained teacher to present the matter weekly in every school.** Occasionally teachers do not know the facts. Some teachers are prejudiced, influenced by habit, training, and propaganda. **Every board of education and school superintendent should establish a department of public morality.** The inevitable joining of liquor and vice among the young should be recognized. It will have to be recognized, as indicated by certain cities in this country today.

4. **Continue this training throughout the college life.** There is a lack of discipline in home and school. In some cases we cannot expect anything better in the home. We therefore, should furnish such training and discipline in private and public schools. If we do not, we shall pay bills later in criminal courts, reform schools, jails, and crimes of degeneracy. Prevention is better and cheaper than cure. There is no cure for degeneracy through liquor and vice.

5. **The economic situation appeals to many who are not affected by the moral issue.** In high schools economics should include a thorough understanding of the **need and value of prohibition in diverting to useful trades and com-**

modities enormous funds formerly used for this habit-making drug; for purchasing protection and for meeting expenses in criminal courts. Civics should teach not only government but **the responsibility of those governed.**

6. **Every church, Protestant, Catholic and Jewish, should provide instruction from the highest officials down, on obedience to law**; the law of God, the law of the state, and the moral law. Honest, fearless preaching is essential. It should not minimize the danger and punishments inevitable in consequence of broken law. We should bring back to our public schools instruction in the Scriptures, from the old Jewish law to the new law, which does not destroy the old, but adds to the Ten Commandments **a new commandment covering social responsibility and obligation.** Christ said in the Sermon on the Mount, "I came not to destroy the law but to fulfill the law."

Immediate Action Is Necessary

In addition to such education there is need of a general movement on behalf of the 18th Amendment and the Volstead Act.

Women are half the electorate and "mothers of the other half." They have no corresponding place or power in government. They are interested in this issue. Women are **natural enforcers of law.** Men are lawgivers. It is the exceptional man who takes time and trouble to learn the technique of law enforcement in his own home. Women are not afraid of prohibitions. They are responsible for the well-being of children, and know the essential value of obedience. They deserve no special credit for this. It is based on natural law.

Nearly one hundred years ago Richard Cobden, the great British economist, visiting this country, declared that the two great race destroyers are liquor and war. He believed the fight against them would be won in this new republic unless it became "choked with prosperity." We are now in the midst of a colossal fight against these race destroyers, liquor and war.

Women the Natural Leaders

Men think logically, women biologically. Women must preserve the race through the child. They are less interested in the tariff than in protection of youth and the home. Prohibition will not be enforced until women are recognized as the natural leaders in such education and enforcement. Their training as mothers and teachers prepares them to render immense service to the government during the next few years in stabilizing this law. We have a great body of volunteers, women who have leisure as men have not, who understand the need of training and can educate public opinion. They are interested in good government and are not handicapped by politics.

There should be a **community group in every town and city made up of responsible heads of women's organizations.**

This community group would furnish **leaders for a county group** which would be invaluable in working for clean politics and greater civic interest.

The heads of the county groups would form **a state group** available for advice and aid in bringing about genuine enforcement in states where it is woefully lacking.

In addition to this, there should be **in the great cities a special city group** trained in the peculiar conditions in our great cities and interested in Americanization.

Our national leaders might well look to such a body of state leaders for a **national committee** which would study the situation with great care and with all the facts.

It was proven in the recent election that women, north and south, would vote if they had a real issue. A new demand for loyalty to the Constitution on the part of every citizen, whether he dates from the Mayflower or Ellis Island, should be a requirement for citizenship. There should be a **thorough revision of our political methods,** a requirement for higher ethics on the part of public officials and a **demand for impeachment of judges and leaders who break the law or defeat the laws of state or nation.**

Menace of "Personal Liberty" Pleaders

We are in the position of a country school, with lax discipline. The rebellious element has gained control. **We need a disciplinarian.** With all possible reliance on self government we cannot lose sight of the fact that there are degenerates, morons, selfish interests and criminal leaders, with a large number of alcoholics left over from the saloon age. We have in these groups a **dangerous party of "personal liberty" pleaders.**

However able and firm the chief executive may be, he will need strong support in his attempt to bring about better conditions. He has at hand a great body of women who, with the wisest and ablest men of the country to aid and support them, could render unlimited service to community, state and nation.

Use Prohibition's Friends

We would suggest the following constructive measures;

1. That education on moral issues and law observance take equal place with mental training.

2. That the **enforcement of the 18th Amendment be placed in the hands of its friends who respect and observe the law;** that they be men and women of ability with special training and experience for this task.

3. That the **enforcement department be taken out of politics.**

4. That women throughout the country be drafted to aid in efforts looking to the better enforcement of the 18th Amendment.

5. **That high ideals and fine examples be placed before youth and held even above prosperity.**

"Ill fares the land to hastening ills a prey
Where wealth accumulates and men decay."

THE PRESIDENT CAN ENFORCE

Ex-Governor Gifford Pinchot
Milford, Pennsylvania

BECAUSE the problem of enforcing the 18th Amendment is as wide as our system of government, **the head of that system is the man to deal with it.**

The President of the United States can control all branches of law enforcement by the nation, and can effectively influence enforcement by all smaller political divisions, such as cities and states. **No one else can.**

Bootlegging is formidable today mainly because most of the law enforcing agencies in America have had, and still have, no serious intention to enforce the law. **The bootleggers know that the will to enforce is lacking. This is the first essential of the situation.**

We have laws enough, regulations enough, money enough, and men enough to enforce the law, if they had strong purpose behind them. **Only determination is wanting.**

I

There is **but one man who can supply the will to enforce on a nation-wide scale.** This is the President of the United States.

Politics Partner of Non-Enforcement

Enforcement is hamstrung by politics. This is the second essential fact. The President alone is strong enough to break the alliance between corrupt politics and the organized business of bootlegging.

In law enforcement, **public sentiment is vital. The detail of machinery is not. Only the President can awaken and lead a nation-wide insistence that the law shall actually be enforced.**

Law enforcement involves city, county, state, interstate,

national, and international questions. All of these matters can come together **only in the President.**

Through its permit system, the government exercises exclusive jurisdiction over the manufacture, storage, and transportation of alcohol in any form. **Here is the heart of the problem.** Only the President can dominate it.

The Constitution is under attack at the point of the 18th Amendment. The President has taken oath to "preserve, protect, and defend" it. The laws are disregarded. **It is his Constitutional duty** to "take care that the laws be faithfully executed."

II

The President can enforce the 18th Amendment and the Volstead Act **up to the level of other laws** by following in substance the course outlined below, every item of which has been tried out in corresponding situations by lesser executives and has been found to work:

1st, by **declaring publicly** his determination to compel respect for the 18th Amendment.

2nd, by announcing that he will **refuse to offer an appointment to his cabinet or to any other office subject to his authority, to any one who has not, before the offer, given the President his or her word to obey the Constitution of the United States, including the 18th Amendment and all laws enacted to give it effect.**

Dismiss Officials for Violating

3rd, by giving **public notice** that, so long as he is President, **violation of the 18th Amendment by any public servant subject to his authority** (including officers of the Army and Navy) **will carry with it immediate dismissal.**

4th, by announcing that all federal enforcement services will hereafter be **conducted wholly without regard to politics, on the basis of merit and efficiency alone,** and that **officials guilty of political manipulation of enforcement agents,** or of **shielding influential law-breakers, will forthwith be dismissed.**

III

Having thus notified the people that the government takes the Constitution seriously, let the President proceed to:

Call together in the White House the heads of the Bureau of Prohibition, Customs Service, Bureau of Internal Revenue, Coast Guard, special intelligence agents, and any other federal services concerned in law enforcement, and **notify them in open meeting that they must co-operate instead of acting independently as at present,** that they and their subordinates must be dry (and **not only dry but efficient**), and that they **must begin producing results within three months or make way for better men.**

Select as **co-ordinating enforcement officer** a man with large executive experience genuinely interested in enforcing the law, set him over these services as representing the President, and direct him to **organize them for co-operation among themselves and with state and local enforcing authorities.**

Instruct him to **attack the flow of illegal drink at the source,** and therefore to **concentrate on the great producers of illegal drink,** which are the alcohol distilleries and denaturing plants, the breweries, and on importation from Canada, and to **throw the strength of co-ordinated forces especially against the largest offenders,** many or most of whom have hitherto been protected by politics.

All U. S. District Attorneys at White House

Call together in the White House (with the Attorney-General and the Assistant Attorney-General in charge of enforcement both present) **all United States district attorneys,** point out in open meeting that some of them have been active in enforcement and some not, **give notice that all of them will be required within thirty days to give proof of activity and within three months to produce results,** and make it clear that **those who fail will be promptly removed.** Direct the Attorney-General to **report the facts at the end of**

the thirty days, and thereafter every three months until further orders.

The known failure of enforcement in the City of Washington has immensely encouraged lawlessness throughout the country. Let the President give the commissioners for the District of Columbia one week within which to report to him the names and addresses of all speakeasies in the District, including hotels, restaurants, and social clubs, all of which are or should be well known to the police. Let him **then direct the commissioners, under penalty of dismissal, to clean up, and to report to him weekly in detail the progress made.** Reports of conditions in the District should be checked for completeness and reports of results for accuracy by members of the United States Secret Service in whom the President has confidence.

IV

Let the President also:

Invite the governors of the several states to meet him in the White House, lay before them their duty under their oaths of office, remind them that the Volstead Act runs in every state, **offer close co-operation** from the nation with the states in enforcing the law, and **ask them to join with the President** in putting public sentiment behind law enforcement.

Suggest to such of the governors as have it the use of their power to remove from office unfaithful or law-breaking sheriffs, mayors, and district attorneys, and **urge them to exercise their influence over all enforcement officials in their states,** whether or not directly subject to their orders.

Invite the mayors of the 100 greatest cities to meet with him, and lay before them in detail why the law is violated, how much it is violated, and how and by whom (all of which is already well known to officials of the federal Bureau of Prohibition). Then call their attention to their individual responsibility under their oaths of office, **offer them federal co-operation in cleaning up, and ask for their co-operation** in return.

Co-operation of Private Leaders

Call in the leaders of the great professions, industries and corporations, lay the situation before them, suggest to them and ask them to suggest methods by which they could assist not only in enforcing the law, but more especially in creating public sentiment for law enforcement.

Call into conference the leaders of the churches, the dry organizations, the service clubs, the nation-wide public, semi-public and fraternal organizations and ask for their help in arousing public support for the law.

Voluntary assistance of this kind has been, and can be again, extremely valuable in arousing public interest and in combating the growing false assumption that the law cannot be enforced. This assumption is damaging. It needs to be destroyed.

V

The methods above suggested for the President in no case require action by Congress. They add nothing to the cost of enforcement which in fact is far less than is generally supposed. They are legal, practical, appropriate, and within the President's constitutional duty.

Part of them derive exceptional efficiency from the very great importance attached under our system to the holding of public office. Every one of them has already, in similar situations, been shown to be effective by the test of actual trial.

These methods reach federal enforcement directly and at once. They reach state and local enforcement less directly and less promptly, but effectively nevertheless. Many local governments, it is true, are so corrupt that no immediate transformation is possible. Certain judges encourage lawbreaking by the mildness of their sentences. But even situations like these are affected within a reasonable time by a general awakening of public sentiment such as would follow the course here outlined. That also has been proved by experience.

VI

The 18th Amendment can be enforced with the statute law we have. Nevertheless certain improvements are desirable. Congress, which is overwhelmingly dry, would eagerly follow the recommendations of a President determined to enforce the law. For example, an amendment to the Volstead Act is needed to **make a search warrant issue on proof of manufacture of illegal liquor as well as on proof of sale,** to meet the recent practice of bootleggers in putting numerous small stills in private homes instead of fewer and larger ones in business buildings easier to enter under the law.

Or an amendment to **make it a felony to distill liquor in private homes,** in which case a search warrant would not be required.

The **buyer of bootleg liquor is morally as guilty as the seller.** A President determined to enforce would press, when public sentiment permitted, for the passage of a law to apply the same penalties to both. When enacted, he would take care that this law also was vigorously enforced.

Take Prohibition from Treasury

The Prohibition Bureau should be taken out of the Treasury Department. Whether it should be made responsible to the President directly or through the Department of Justice is less important than that the President himself should be determined to enforce the law.

If the President were determined to make the 18th Amendment effective, many changes in the regulations under the Volstead Act would inevitably follow. Among them would be a revision of the formulae for denaturing alcohol to **make renaturing less easy, and better control of so-called "completely denatured" alcohol.**

The federal permit is the key to the control of bootleg liquor at its source. About two-thirds of the 100,000,000 gallons of industrial alcohol made under government permit in 1927 was diverted to bootleggers. **A survey to determine**

how much denatured alcohol is actually necessary for various industrial uses would supply knowledge which, applied by a man with a will to enforce, would go far to dry up the largest source of illegal drink.

Stop "Diplomatic Liquor"

Still other ways of reaching the situation are open to the President. For example, the free and unlimited importation of liquors by diplomatic representatives is a chief cause of the wetness of Washington. If the President, following the far stronger precedent set by the British government years ago in the matter of slaves, should suggest to all foreign governments that he would regard it as a friendly act if they would instruct their representatives to import no more alcoholic liquors, but conform instead to the law of the country to which they are accredited, the atmosphere and attitude of official Washington respecting the 18th Amendment would change overnight.

VII

It will be objected that the President is already too heavily burdened to undertake new tasks. The answer is that the President has no duty more essential than to defend the Constitution and enforce the law. If something else must wait, then let it wait.

Not Five Per Cent of President's Time

But in fact nothing need wait. For it is confidently asserted, on the basis of practical experience, that everything here outlined, and much more, can be done without absorbing five per cent of the President's working time.

Once it were known that the President was thoroughly determined to enforce the law, the rest would follow almost as a matter of course.

When a President of the United States makes it his personal business to see that the 18th Amendment is enforced, and sticks to it, it will be enforced. And not before.

TREAT BUYERS AS "FENCES"

Matt Riehm
93-Year-Old Police Officer
Virginia City, Nevada

YOU are receiving great praise from the American people for making your liberal and wonderful offer. I myself more than praise you. If your offer will make a success of the enforcement of the dry law you deserve a monument that will pierce the clouds.

Below is the best and only way the dry law can be enforced.

In the first place **the drinker of intoxicants must be punished as well as the maker.**

The drinker is the worst criminal of the two. The drinker will murder his wife and children. The maker will not do that. **If there were no drinkers there would be no makers. The drinker must be punished before the dry law can become effective.**

Congress can not make a law prohibiting the drinking of intoxicants, but Congress can enact a law to make **the receiving of unlawful goods a felony.**

A law of this kind would be constitutional. The drinker could be easily convicted, because he carries the evidence with him that he received unlawful goods.

Bootleg Goods Unlawful Goods

We have a law that makes the receiving of stolen property a felony. **A law prohibiting the receiving of unlawful goods would be the same and would be constitutional.**

A United States Senator or Congressman who would not vote for a law that would prohibit the receiving of unlawful goods would prove himself a very unpatriotic citizen and would allow the Constitution of the United States to be trampled on.

There should be a clause in the law that would compel any state or county officer to enforce the above law **with a penalty of impeachment for neglecting to enforce it.**

Reward Informers

There should be a **reward for informing on an officer who neglects to enforce the law.**

I am an old man, 93 years old. I would like to live to see John Barleycorn die and **intoxicants be as scarce on earth as snow-balls are in hell.**

I am at present a police officer. I claim to be the **oldest police officer in the United States.**

I also claim to be the worst enemy John Barleycorn has in this section, for I have a good reason, as whisky ruined part of my family.

I sincerely hope your kind and liberal offer will be the means of making the enforcement of the 18th Amendment successful.

AWAKEN THE PATRIOTIC CONSCIENCE BY DISSEMINATING INFORMATION

Garfield A. Roberds
District Judge, Olathe, Kansas

THE adoption of the 18th Amendment to the Constitution of the United States was not accomplished by a mere spasmodic effort on the part of those interested in its adoption, but, on the other hand, this amendment was made a part of the fundamental law of our land **after a crusade of temperance education and appeal that had been made through a period of time reaching many decades into history.**

Its adoption was the culmination and result of an educational program which the "temperance crusader" had unceasingly carried on through the use of many agencies, including the pulpit, the lecture platform, temperance instruction in the schools, by articles published in newspapers, books and tracts, by the work of temperance societies and by many aggressive national and state political campaigns conducted by the Prohibition Party.

Through these and other agencies there had been **the unceasing urge for temperance legislation and continuous instruction on the evils of intemperance.** And during this period of time a generation has grown up under the influence of this program.

This educational program not only included instruction as to the detrimental financial, physical and moral results that come from the liquor business, but it included the other element, namely, that intoxicating liquor forms no necessity for the requirements of life.

Since its adoption the 18th Amendment has been called an experiment by many, and many have urged that the

experiment has proven to be a failure. The reasons urged in support of the latter position have included arguments that have challenged the serious thought of the most ardent supporters of national prohibition. However, **by the vote of an overwhelming majority on November 6th, 1928, this question passed beyond the experimental stage, so that the matter of its effective enforcement is the problem.**

As we look upon this problem to-day, we at once discover that we are presented with a situation that is very different from that presented in the days prior to 1919.

Temperance Education Now Lacking

Today we note the very conspicuous absence of the old time "temperance crusader," with his appeal in behalf of the victims of intemperance and with his educational program against the use of rum.

At the present there are no temperance lecturers going about the land, as in former days; we very seldom hear of the temperance problem from the pulpit; there is no longer the distribution of temperance literature and tracts; the Prohibition Party no longer has a place on the ballot; and the surviving temperance organizations, having abandoned their former vigorous program, have lost their old time appeal and effectiveness.

In other words, **there is not, at the present time, a defined, extensive, systematic educational program against "intoxicating liquor" before the people as a whole.** We have laws whereby the violators of the 18th Amendment may be punished, and we have governmental agencies engaged in the enforcement of these laws. But the crusader with his temperance program is absent.

And we have with us another situation with its problems. In pre-prohibition days intoxicating liquor was a legalized commodity and its use presented the sole problem. **Now the problem includes the illegal manufacture, the illegal transportation, the illegal sale and consumption of an outlaw product,** so that we have added to our task the additional evil element of participation by many, through far-

reaching conspiracy and organization, in the purpose to violate the law and participation in the purpose to thwart and obstruct law enforcement.

This conspiracy extends from the producer to the carrier, to the salesman and finally to the purchaser and consumer, all of whom are dealing with this illicit commodity.

The prospective consumer, with his money, is the ultimate goal of the illicit manufacturer, the illicit carrier and the illicit peddler of liquor. Therefore, on that person must be centered not only the appeal of the crusader of old which related to the detrimental financial, physical and moral effects which follow in the wake of rum, but added to this **there must be taken the greater appeal for an awakening of the patriotic conscience and thought respecting law obedience and law enforcement, and an awakened conscience that will extend to the evils of abetting and condoning law violation and of thwarting law enforcement.**

Government As Educator

That this problem is of national concern, there is no question. Because of this outstanding fact, **the national government may consistently step in and take the initiative in fostering and in extending an educational program relating to temperance and obedience to law that will supplement a national law enforcement program,** such an educational program to have for its primary objective the prevention of law violation, giving emphasis to the matter as it relates to the 18th Amendment.

Such an educational program carried on through governmental agencies should also cover instruction relating to the detrimental effects of intemperance that are sure to follow the consumption of present-day illicit intoxicating liquor.

This program should also include the important feature that would bear directly on the awakening of a patriotic conscience and thought in the hearts and minds of all that would establish a standard of citizenship which would **cause the persistent violator of law to be regarded as a**

potential enemy to our government; also, that he who aids, abets, or who is the recipient of contraband or illicit merchandise is a potential obstructionist to the welfare of our government.

Following the statement regarding the government putting on such a program, the query naturally arises as to what particular governmental agency would be required to carry on this program. Would there need to be installed a large amount of new governmental machinery in order to make it effective? The answer is decidedly in the negative. There are now already many bureaus and agencies of our government that may properly be utilized for this work, such as the Bureau of Education, the departments that are now functioning under the food and drug act, Internal Revenue Department, Public Health Service, national law enforcement agencies, and others. By and through such agencies the governmental information, observations, reports, bulletins and statistics from the public printer and by radio broadcasting could be given out to the public, to the public as well as private schools of the nation, to recognized temperance and patriotic organizations, and to the religious and secular press of the land.

There could be thus furnished by the government, in the interests of the people as a whole, this information bearing on the 18th Amendment, in the same manner as it now furnishes in printed form and by radio broadcasting to the people the lectures, statistics, and reports regarding agriculture, and concerning conservation of timber, or information relating to the eradication of animal and plant diseases and infections, or relating to the preservation of game and fish, or the weather forecast service, or the debates of Congress.

White Light of Publicity Needed

Under governmental encouragement, the receipt and use of information relating to present-time intoxicating liquor, carrying with it the prestige of governmental origin and authority would, when so extensively distributed, cause such a white light of public attention and consideration to

be focused on this particular problem as no persistent violator would be able to withstand.

The violator of law cannot stand either the light of the sun or the light of public attention. The effect would reach and affect with like force the illicit maker, carrier and seller of outlaw liquor as it would affect the ultimate purchaser and consumer, be they of high or low position in business, political or social life.

Its effect would have a like bearing and force upon the potential violator.

Its effect would bear with special application upon the unfaithful enforcement official whose work should have for its aim the fair enforcement of the prohibitory laws. **Effective enforcement can and will best be performed under the light of an informed citizenship.**

It may be safely asserted that the matter of "enforcement" is a relative term, for the reason that the matter of strict enforcement, 100% enforcement, of law seems to be a human impossibility. This, of course, also applies to the enforcement of the 18th Amendment. It is a recognized fact, however, that **the enforcement of this amendment is a comparatively easy task in certain sections of the country, as compared with its enforcement in other sections.** And the reason for this fact cannot be assigned to that of mere accident. The well-recognized reason for this fact is none other than **it is the direct result of the influence and effect of temperance education.**

The two elements, first, that of prevention, and second, that of enforcement of the prohibitory laws, are alike dependent for their effectiveness upon temperance education. **The enforcement officer can go but little farther with his program than the standard for enforcement which is placed upon it by the sentiment of the people.**

Therefore, the initiating and promulgating by the government of an educational program, built around the exigencies of the 18th Amendment in its various aspects, will so advance the standard of public interest and sentiment that it will carry with it, in enforcement effectiveness, such a

weight of influence that beneficial results from enforcement will be obtained that have heretofore been impossible.

Precedent for Federal Education

The resources of our government have been used and are now used in time of great national need in almost numberless causes,—in time of great flood, grave labor disturbances, the threatened spread of disease or to quench the raging of forest fires. The present work of the government for law enforcement deserves commendation. But it is not receiving the merited backing and support of our citizenship. This backing and support will follow when the people know the need. The initiative of bringing this knowledge of the need to the people should be assumed by the government. **When thus promoted, favorable public sentiment for enforcement will be as clearly evidenced as the result of the late national election was clear evidence of the re-ratification by the nation of the 18th Amendment.**

The task is one of "education." The national need for such a program is a great need, so great as to fully justify just such a governmental program. And as a result of this national knowledge and interest, added to the government's law enforcement program, there will be the greater effectiveness of the 18th Amendment.

ONLY LAW OBSERVERS FOR PROHIBITION ENFORCERS

John Rustgard
Attorney General, Alaska

THE problem of how best to carry into effect the 18th Amendment reduces itself to the question of how to eliminate the causes which are responsible for the government's present failure in this particular field. The leading one of those causes is not difficult to find. It is obvious. Nor is it difficult of eradication, or, at least, of material abating.

The present lamentable debacle is undoubtedly due primarily to the dishonesty of officials charged with the detection, prosecution and punishment of the offenders.

This evil is, at least to a very decisive extent, remediable, because, contrary to popular belief, **the government has not heretofore,** as I shall endeavor to demonstrate, **made any serious effort to obtain conscientious officials for this work.** Very frequently individuals well known to be dishonest and otherwise unfit are appointed.

What would happen if the custom houses were turned over to smugglers, and the enforcement of the law against larceny were entrusted to dealers in stolen goods? The question sounds absurd, but the administration at Washington has in the past so very generally selected the officers of the legal and judiciary machinery from among those who have been and are patrons of bootleggers and as such accessories of the crime they are required to prosecute and punish.

In order to emphasize this feature of the present system, let me cite, by way of illustration, a few incidents which have come under my own observation.

A Wet U. S. Attorney

About a year ago a candidate for U. S. attorney, on his way home from a visit to the Department of Justice in the interest of his candidacy, confided to some of his friends: "I am beat; they have my record and I could not deny it, but they guaranteed to get me a job as assistant, no matter whom they appoint to first place." This man **had no experience as a lawyer and was noted principally for his inability to stay sober and for his disregard of his personal obligations to his fellowmen. In other words, he was a rounder and a deadbeat.** Nevertheless, to his own surprise and to the disgust of the community, he was, **shortly after the incident related, appointed to the place he had sought as official vindicator of the established policy of suppressing the liquor traffic.** The Department of Justice demonstrably knew this man's record.

And yet, this man is only a fair sample of a very large class of those entrusted with the vindication of the dignity of the law. He is probably not much worse than the average of the federal officials who have come under my own observation.

Some time ago, on accepting an invitation of a prosecuting officer to visit him at his apartments in one of the larger cities of the country, I found myself confronted with a buffet crowded to capacity with a battalion of bottles and glasses. I had no sooner entered than my host proceeded to fill two bumpers with whisky, one for himself and one for his guest. When I declined the offer he suggested that maybe I preferred brandy or gin. When this also was declined he suggested, out of his solicitude for my comfort, that a glass of wine would perhaps suit me better. The supply was ample and varied and in full view. There **was no attempt to hide the fact that this officer was himself a patron of crime.**

Just one more concrete illustration of what I wish to drive home: Only a few weeks ago a federal official of my acquaintance visited at a small Canadian city from which much liquor is smuggled into the United States. When

this official was about to depart, the chief of police shook hands with him and addressed him in about the following language: "I congratulate you on being one of the first U. S. officials to leave here sober. Practically all of them proceed to acquire a jag as soon as they land and nearly always leave here filled to the brim."

"No Abstainers Wanted"

If any man, who was an abstainer as a matter of principle prior to the Volstead Act, has been appointed to a federal office, I have never heard of it. Those who are selected to enforce the 18th Amendment are generally, if not universally, chosen from those who feel that prohibition is an invasion of personal rights to which no one should submit—and to which they themselves do not submit. As law officers they are, as a rule, only the unwilling instrumentalities of what they consider oppression, and accept their position only for the purpose of obtaining the financial income it may yield—in one way or another.

The disintegrating effect of placing the administration of justice in the hands of patrons of bootleggers is manifold and most of it so self-evident it need not here be referred to. The less apparent is the influence on jurors. In small communities, in particular, these know full well the character and proclivities of the officials, from the judge down, and when called upon to pronounce a man guilty whom they know to be no more so, at least not morally, than the judge or the prosecuting officers, they naturally hesitate. To them the court procedure becomes a farce. On several occasions I have observed that for long periods after some flagrant miscarriage of justice took place the jurors absolutely refused to convict no matter what the evidence showed. They felt, or at least suspicioned, they were being used for illegal or sinister purposes by patrons of crime.

The one advantage of the spoils system, always cited in defense of its retention, is that the President may have full freedom to carry out the functions of government through

officers in sympathy with his policies. This, at least, in many instances, is not only advantageous but indispensable to good government. **But in the administration of the liquor laws the authorities have not availed themselves of this power in the manner it was intended to be used.** Seldom, if ever, have officers been appointed who were in sympathy with the principles or purposes of prohibition. The very reverse is more generally true.

My first recommendation would be to **appoint officials in sympathy with the law they are called upon to enforce.** This is easy of attainment, for such men are not difficult to find.

In the second place I should recommend that only men of high moral character and unimpeachable integrity be entrusted with the discharge of any governmental function.

While the latter proposition may seem self-evident it is not at all apparent that any serious effort has been made to carry it into effect. At least it is obvious that a great many men known to be moral derelicts have found favor with the appointing powers, and **the suspicion is well justified that moral qualities are not assets of much value to an applicant for public office.** It is no new discovery that in selecting candidates for office those indices to character which are regarded as essential guides by private employers in judging the merits of their staff, are demonstrably ignored by the departments in Washington. **The moral delinquencies of our officials should, therefore, not be ascribed to error of honest judgment in selecting them, but to complete disregard of those precautions which every intelligent and successful business man observes in judging men.**

Personality Tests Possible

It may well be admitted that an ex-convict stands, as a rule, small chance for appointment, although several such have walked away with judgeships and even better positions, but the fact that a man has never been convicted of a crime should not be accepted as sufficient evidence that he is honest.

There are certain personal proclivities, certain attitudes of mind, which are well nigh infallible indications of what an individual is likely to do under certain specific conditions or circumstances and which, in addition, are easily ascertainable.

For instance, one who habitually abstains both from liquor and tobacco shows by that fact that he takes life seriously, that he is possessed of the important element of self-control, that he does not readily yield to temptations, that he is not a mere ape or likely to just drift with the current, but has independence of judgment and the will to win, and is likely satisfied to be able to justify his actions to himself.

Again, one who is careless about his personal obligations is nearly always unprincipled in everything and has no sense of honor to keep him straight. He feels bound by no obligations, and an oath of office is to him simply a formula subscribed to perfunctorily.

And, lastly, extravagance in personal expenditures discloses an inherent moral weakness which jeopardizes integrity whenever temptation presents itself. Men of that type will do almost anything to obtain the money which they so greatly enjoy spending.

These and similar indices of character are demonstrably disregarded so often by the heads of our government that we are justified in believing that they are never made use of—all of which shows that **the improvement of the quality of public servants is not impossible, not even difficult, but readily attainable** by the simple method of adopting the same system utilized by intelligent private employers in selecting their help to fill positions of trust.

Criminal Procedure Archaic

It should also be borne in mind that **our criminal procedure is archaic.** We still very largely adhere to the system adopted in England immediately after the fall of the Stuarts, at a time when the chief concern of the public was to protect itself against corrupt and persecuting public

functionaries. But more care in selecting conscientious public officials will, as a matter of course, be followed by a public demand for such change in the criminal statutes as will make the conviction of the guilty less difficult. Where officials are conscientious there is, for instance, no reason why, as now, the defendant in a criminal case should have twice as many peremptory challenges as the government.

Nor would there in such case be any valid reason why a defendant in a criminal action, where he fails to take the witness stand in his own behalf, should not be subject to the same imputations which attach to a civil litigant when the latter fails to produce evidence which is naturally in his possession alone. In civil cases the Supreme Court has laid down the rule that "all evidence is to be weighed according to the proof which is within the power of one side to have produced, and within the power of the other to have contradicted," and that "when it is apparent that the accused is so situated that he could offer evidence of all the facts and circumstances as they existed, and show, if such were the truth, that the suspicious circumstances can be accounted for consistent with his innocence, and he fails to offer such proof, the natural conclusion is, that proof, if produced, instead of rebutting, would tend to sustain the charge." **There is no sound reason why this rule should not be applied to criminal cases.** It is only the application of common sense in the administration of justice.

If in the foregoing I have contented myself with discussing only that which is trite, it is for the purpose of demonstrating that **the disease of which we complain may readily be cured without changing either human nature or our governmental institutions. It is only necessary to publicly and clearly place the guilt where it belongs.**

MAKE BUYERS "TELL" ON SELLERS

James F. Sanford
County Judge and Judge of the Juvenile Court
Colorado Springs, Col.

THE first step toward the enforcement of this amendment should be a proper understanding thereof, and to free the public of any misunderstanding of it and unjust prejudice against it.

The 18th Amendment is not a sumptuary law and there is no inherent right to manufacture, sell, or transport intoxicating liquors for beverage purposes, or to possess the same for personal use as a beverage. This amendment creates no new power and enacts no new law. It is, in fact, a repeal of all statutory laws on intoxicating liquors for beverage purposes and is a declaration on the part of the people placing the status of intoxicating liquors, as a beverage, just where it was upon the adoption of the original Constitution.

If the law is as above stated, it follows that the 18th Amendment does not interfere with the inherent rights or infringe on the constitutional personal liberty of any citizen of state or nation. It is not a prohibitory measure, in the sense we commonly use that term.

All intoxicating liquor laws, short of absolute prohibition, that have ever been passed, are license laws, subject to revocation at the discretion and will of the authority that passed them. **There is no vested right in a license, therefore there never was a liquor law passed in which any vested right was had,** or in which any right could be established by custom, time or usage.

A propaganda bureau established by the government should confute the false propaganda of the opponents of the Amendment and thus clear the minds of the many loyal, sincere and law-abiding citizens who erroneously be-

lieve this propaganda. Thereby we shall greatly increase the moral force of those who favor its enforcement. The government bureau should also keep citizens informed as to the benefits of enforcement and the progress achieved in making it effective.

The enforcement of prohibition should be in the judiciary and under the supervision of the Attorney-General. And at all times in the hands of those who believe in its principles, and free from political control. We need fewer fines and more imprisonment for its violators.

"Where Did You Get It?"

Drunkenness in public, as well as possession of liquor, should be offenses. Buying liquor should not be an offense. Neither the possessor nor the buyer should be guilty as an accessory of the seller or maker. But **in all trials they should be required to testify against the seller or maker and should be held in contempt of court and subject to punishment for refusal to give evidence of where and of whom they got their liquor.**

Give the right to arrest and examine for drunkenness and possession of intoxicating liquor, with the power to punish for contempt in the presence of the court, for refusing to tell when, where, how and of whom the liquor was obtained, **with immunity of punishment for the offense of drunkenness and possession of liquor if such evidence is given.** This would deprive the witness of the benefit of the rule of self-incrimination, and should to a great extent overcome the difficulty that the people have in obtaining evidence for the conviction of the maker and seller. The punishment should, as a rule, be by imprisonment, thus preventing the defendant maker or seller from escaping punishment by paying the fine of the user or possessor.

The practice of permitting "bootleggers" to plead guilty with the understanding their punishment will be fine only, should for the same reason be discontinued. Such practice permits the "higher-up" to escape and to conduct his busi-

ness without exposure, by furnishing the money for the fine. Also the bootlegger escapes real punishment and the salutary influence of the fear of imprisonment is lost.

The right to advocate the repeal of any law should not be denied. But this right is not broad enough to permit the assertion that the government cannot enforce any law, organic or statutory, and if this assertion is not now a punishable offense, it should be made so by law. It also should be made unlawful to publish such statements and to send such literature through the mail.

Stop Newspaper Falsehoods

Power should be given the proper authorities to bring before them, for inquisition, persons who make and editors and publishers who print, statements indicating that they have knowledge that this amendment is being violated; and **proper punishment should be provided for their refusal to give the information or knowledge upon which they base such statements and publications.** In case of the fining or conviction of editors and publishers making false statements regarding the violation of the liquor law, they should be required to retract through the same publication and with equal publicity given the original statement for which they were convicted.

In case of persons making such public statement and refusal to give the information, they should, upon second conviction therefor, be placed under bonds or such other restrictions as may seem wise for the purpose of carrying out such provisions.

There should be a determined effort to engage a more strenuous co-operation on the part of Canada and Mexico to prevent the smuggling of liquor from those countries across our border lines.

We should bar all immigrants who use intoxicating liquors as a beverage.

Medical schools and societies should teach and advocate the discoveries of science that take the place of the former use of alcohol in medicine.

Liquor scenes in motion pictures should be barred and

efforts should be made to enlist all engaged in this business to join in such movement.

Annual Prohibition Holiday

Supplemental to the government's efforts to correct false propaganda, the public schools and all educational institutions, patriotic and fraternal societies, temperance and religious organizations and all societies and agencies working for the uplift of the people and protection of our nation should be brought together in a common and united effort. At least one day in the year should be given to this purpose. The 18th Amendment, which had received legislative ratification of the required two-thirds of the states by January 16, 1919, was proclaimed by the State Department on January 29 as going into full force and effect on January 16, 1920. Would not January 16 be an appropriate date? It might be given a suitable name.

This day should be, by common consent, given to patriotic exercises, law enforcement and all matters of public welfare. Churches and all religious associations should hold enforcement exercises on the Sunday next prior to said date. All other organizations should devote their meetings next prior thereto to such purposes; and the public schools should have appropriate exercises one day during the week including said date.

The first Monday in December, fixed by the Constitution as the date for Congress to meet, would be an opportune time for a nation-wide discussion of bills pending before that body and needed legislation, as well as the enforcement of this amendment and all laws, and support of the Constitution. This would serve to create and maintain an interest in the affairs of the government and keep the importance of the 18th Amendment and the sustaining of the Constitution before the people and Congress. It would enlist the interest of the children and youth and teach them respect for the law and give us a citizenship of such character as would so guide and protect our nation, "that government of the people, by the people, and for the people shall not perish from the earth."

ROAD AND WORKHOUSE SENTENCES

**C. G. Saunders, Assistant Superintendent,
Bureau of Identification, Police Department,
Winston-Salem, North Carolina**

PROHIBITION is just like all other crimes inasmuch as there will be people who will commit it even though the penalty be death. We have had crime since the world began and will continue to have it till the end. But that is no reason that we should get discouraged and let up or quit.

With the trend of affairs as they now are **it would be fatal to even let up just a little bit.** So we will have to take into consideration the following facts to make enforcement more effective.

The one thing of greatest importance in combating this crime is public sentiment. Mobilizing this will do more towards curbing the liquor evil than all else. Using first the churches, then the schools as a base to operate from, public spirited citizens can and will broadcast enough propaganda to enlighten the public and make them see where they are and **just why it is so important that we have prohibition.**

We have much right to praise those pioneers who fought and struggled long years ago to have the 18th Amendment and the Volstead Act passed and made into the laws of our country. **They foresaw the utter impossibility of liquor plus the great motorized age of today.** They were broad-minded enough to see that **liquor and gasoline would not mix.** And they will not.

Alcohol numbs the mind. Therefore it has no place in this great age of unrestfulness, adventure and progress.

The world at large is too busy to have liquor impede its progress.

There are **only a few who insist that we should have**

liquor back. And they are getting to be a smaller and smaller minority every year.

We can not hope for absolute prohibition for the same reason that we can not have absolutely a crimeless world. But we can curb it to the extent that there will be little interference from its use by the few people who still want it. **They will die out in time.**

Wholehearted Enforcement

The next step in this program is the selection of the men and women who are to enforce this law. There must be absolutely **wholehearted, clean support from the head of the federal government down.**

The people who are to enforce these laws and have to do with the punishment of them must have moral character as well as the physical strength and **above all must be able to withstand bribes for getting by and for protection.**

This may sound a little radical but investigations and probes in different parts of the country lately have proven wholesale corruption.

We must have officers who are conscientious and fearless in the discharge of their duty. And the ones who pick these men should be above reproach themselves.

Then the third step and most likely the greatest is the punishment. There will have to be a **uniform set of laws enacted to handle the violator.** And these should not be local in some instances, but national.

Fines Help Little

There should be no fines. If a liquor violator can get by for six months **he can pay almost any fine the courts see fit to impose upon him.** He can do this for the reason that **there is a great profit in the handling of liquor.** And for that reason I say do away with the fines and **put a straight road or workhouse sentence on the violator who is caught and convicted.**

At the same time **put a suspended sentence over him or her** so that if they get caught the second time they will auto-

matically put themselves right back on the roads or in the workhouse.

There are not many who relish a hard work sentence.

This law should handle not only **the poor or negroes but the white and rich as well.** It must be an impartial law to all.

Of course, as I have said before, there will still be a few who will take the risk, but they will be few compared to the whole country.

More Official Co-operation

In conclusion let me say that there should be **more direct co-operation among federal and state, county and city officers.**

Politics should be done away with and party hatred forgotten. All should and must work together for the one great cause, prohibition.

Also, the work of **the professional bondsman and the shyster lawyer** should be discouraged as much as possible. If these two professions are legitimate and must have their place in the world's business, let them be, but they should and can be discouraged from being allies and co-partners in the bootlegger's nefarious practices.

There will be a man, a great man, in power next spring that public sentiment favors. Else he would not have been elected to the great position he will occupy. The one great thing that he favors is prohibition. So you see **this plan is more acceptable for that one reason.**

Just another word as to where the prohibition forces should operate from. I believe that **the control and direction of the prohibition forces should not be from the Treasury as at present** but from the Department of Justice.

MORE TRAINING, BETTER PAY FOR PROHIBITION PROSECUTORS

William H. Sawtelle
U. S. District Judge, Arizona

AS is well known, the National Prohibition Act was enacted in pursuance of the 18th Amendment. Under the provisions of that act the Treasury Department and the Department of Justice are charged with the duty of enforcing the same. It has been suggested that the Treasury Department be relieved of all responsibility for its enforcement and that the entire responsibility be placed upon the Department of Justice. Those who make this suggestion overlook the fact that **the Act, in many respects, is a revenue measure, and that that feature of the Act, at least, properly belongs under the jurisdiction of the Treasury Department.**

Section 2 of the National Prohibition Act provides:

> "The Commissioner of Internal Revenue, his assistants, agents, and inspectors shall investigate and report violations of this Act to the United States attorney for the district in which committed, who is hereby charged with the duty of prosecuting the offenders, subject to the directions of the Attorney-General."

The best and most practicable plan to make the 18th Amendment effective would be for **all state and municipal officials to co-operate wholeheartedly with the federal government in the enforcement of the National Prohibition Act.** The time will come when the law-abiding citizens of the various states will demand of its officials such co-operation. Until such time much can be done to make the Amendment effective.

To that end I recommend:

1. That only such state and municipal officials who are concerned with the enforcement of the criminal laws be selected as are wholeheartedly in sympathy with the spirit of the 18th Amendment.

2. That the first paragraph of the National Prohibition Act be amended so as to read as follows: "Any person who manufactures or sells liquor in violation of this title shall be fined not more than $1,000 or imprisoned not exceeding one year or both, and for a second or subsequent offense shall be fined not less than $200 nor more than $2,000 and be imprisoned not less than one month nor more than five years."

Penalties Are Inadequate

The penalty now prescribed for the first offense of sale and manufacture of liquor is, in many cases, wholly inadequate. The penalty for a second or subsequent offense is ample.

3. That the second paragraph of said section be amended so as to read as follows: "Any person violating the provisions of any permit, or who makes any false record, report, or affidavit required by this title, or violates any of the provisions of this title, for which offense a special penalty is not prescribed, shall be fined for the first offense not more than $500 or imprisoned not exceeding one year or both; for a second or subsequent offense not less than $200 nor more than $1,000, and be imprisoned not less than one month nor more than five years, or both."

The punishment now prescribed for the first and second offenses of transportation and importation is also inadequate. One may unlawfully import, possess and transport, as often occurs, truck loads of liquors. For the first offense the maximum penalty is a fine; for the second offense the maximum penalty is a fine or imprisonment for not more than ninety days. Such light penalties do not serve as a deterrent. They are by the lawless element considered as a license to continue in the liquor business. Experience has demonstrated that, if this law is to be enforced, more severe

punishment must be meted out to the offenders thereof.

4. That the Attorney-General appoint **in each judicial district at least two additional assistants** to the district attorney, whose sole business shall be to consult with and advise the agents of the Treasury Department, and the United States commissioners as to their respective duties, and to prosecute all violations of the National Prohibition Act. Such special assistants should be able and experienced lawyers and residents of the district for which they are appointed. They should be given absolute control of all such prosecutions, subject only to the Attorney-General. The agents should be required to consult such special assistants before obtaining a search warrant, **thus guarding against unlawful searches and seizures, which have tended to bring the law into disrepute.**

Experienced Prosecutors Needed

Only those who really believe in the 18th Amendment should be employed for the purposes mentioned. The fact that they believe in the enforcement of all laws should not suffice. We have too many prosecutors of the latter type. It is impossible for the district attorney himself to prosecute all violations committed and triable within his district, and, of necessity, he must rely upon his assistants, many of whom are young, inexperienced lawyers who accept the office temporarily merely for the opportunities afforded them of acquiring experience at the bar. **With rare exceptions they are wholly unprepared to cope with experienced lawyers representing the accused,** and the result is what might be expected. These inexperienced, poorly paid, young men are not capable of properly representing the government. **They do not know when they have a strong case or how to present it in court.** It is my opinion, based upon nine years' experience in trying prohibition cases in my own and other districts in the ninth judicial circuit, and I confidently assert the opinion of many other district judges, that **this failure to have the government represented by experienced prosecutors, together with the failure of the state and municipal**

authorities to co-operate with the federal government, is the outstanding cause of the failure of the National Prohibition Act and the 18th Amendment.

With experienced counsel in charge of the prosecution a greater number of convictions would be secured, and the law-abiding element would learn to respect, and the lawless element to obey, this law.

Competent prosecutors would, of course, command a salary larger than that paid the regular assistants, but the results would more than justify the extra expenditure. Doubtless Congress would willingly make the necessary appropriation to enable the Attorney-General to carry out this plan.

Both the Amendment and the Prohibition Act are fundamentally sound. The trouble is they have not been given a fair trial.

Teach Reverence for the Laws

5. That while these direct efforts are being made to enforce the 18th Amendment, a nation-wide campaign, carefully planned and directed, be carried on through the newspapers, periodicals, schools, pulpits and homes to build up a sentiment for obedience to and respect for the laws of our country. Or, as the immortal Lincoln has expressed it:

> "Let reverence for the laws be breathed by every American mother to the lisping babe that prattles on her lap; let it be taught in schools, in seminaries and in colleges; let it be written in primers, spelling books, and in almanacs; let it be preached from the pulpits, proclaimed in legislative halls and enforced in courts of justice and in short let it become the political religion of the nation, and let the old and young, the rich and the poor, the grave and the gay, of all the sexes and tongues and colors and conditions sacrifice unceasingly upon its altars."

"SECURE A POPULAR ATTITUDE OF IMPARTIALITY TOWARD THIS LAW"

Harold D. Shaft
Assistant Attorney-General
Bismarck, North Dakota

FUNDAMENTALLY, the prohibition law should remain intact. The failure of enforcement lies not so much in defects of the legal machinery as in the psychology of American people.

For various reasons, some sound and mostly unsound, a large and militant group of citizens feel that the prohibition law is not the will of the people, is an infringement upon sacred liberty and an unwarranted imposition upon the rights of free citizens.

Equally militant is the group which feels that the prohibition laws are more sacred than the Constitution itself and that any means of enforcement, any disregard of fundamental rights of privacy and any penalty for violation is justified to uphold the prohibition laws.

The two extreme factions have produced a curious situation.

On the one hand open advocates of nullification, widespread disobedience and a psychological feeling that the violator of the prohibition law is not a "criminal" in the same category as violators of other laws.

On the other hand we have the formation of a great governmental agency for the control of this one crime; we have side by side, our United States marshals, charged with the enforcement of all criminal laws, and United States prohibition enforcement officers charged with the enforcement of this one law; we have great civilian organizations existing for the sole purpose of assisting and directing the government in the enforcement of this one law; and we

have the courts on the one side making a jest of the law by trifling sentences and lax enforcement, and on the other making a by-word of the law by a frank disregard of all safeguards and guarantees of liberty and privacy in respect to persons charged with violation of this particular law.

The direct result of this situation has been the development of a unique attitude toward this law. The government, the violators, the protagonists, the antagonists and the citizenry as a whole have all developed the psychological attitude that the prohibition law is a law separate and apart from the general system of criminal law. A violator is not just a criminal, he is a "bootlegger" or a "prohibition law violator," and depending upon the point of view, the "bootlegger" is either a liberty-loving patriot or a traitor.

If the American public could be brought to consider a prohibition law violator as simply an ordinary criminal—not a patriot, nor a traitor—if by some process the psychological reaction could be developed to bring about an attitude of impartiality toward this law, if it could be made to appear to the common run of law-abiding American citizens as just another criminal law, to be enforced in the same dispassionate and impartial manner as other laws, much might be accomplished.

I. Establish a scientific, uniform definition of "intoxicating liquor"

Complaint is frequently made that the definition contained in the Volstead Act is not accurate or scientific. Whether it is or is not could readily be ascertained by an impartial body of experts. The definition evolved by such a body should be incorporated into the law.

II. Pass a uniform prohibition law in every state, consistent with and in support of the federal law

State and federal governments should not work at cross-purposes. Every state of the union should have a prohibition law, uniform with that of the United States, giving to

state law enforcement officers a direct mandate to enforce a law which admittedly is most susceptible of local enforcement.

Through the friendly offices of the American Bar Association and the Commission on Uniform State Laws, assisted by a scientifically aroused public opinion, this could be accomplished in a period of a few years.

The brunt of successful enforcement must rest largely upon the local peace officers, and its success is dependent upon the ability and integrity of those officers, coupled with an intelligent attitude on the part of the people.

The federal government's greatest aid can be rendered in the cases involving smuggling, interstate commerce, conspiracies extending over several states, and the control of the source of supply and the distribution of legitimate alcoholics.

III. Revise the gradation of offenses and penalties therefor

Offenses should be graded more accurately and scientifically. Conspirators, wholesalers, etc., should be heavily penalized. Second and subsequent offenders should be fined and imprisoned. Hip-flask violators and home-brew makers for private consumption should be reasonably punished, but suspended sentences for first offenders of this character should be encouraged.

IV. Inflict only one penalty for each offense

Federal law should provide that previous conviction for the same offense by a state court is a bar to prosecution, and state law should bar cases in which there has been a previous conviction in the federal court. Punishment by both state and federal government for the same offense, as is now permitted, is not justice.

V. Maintain and strengthen nuisance, padlock and confiscation provisions

The padlocking of places and the confiscation of vehicles, etc., are effective, and should be continued. The internal

revenue statutes referring to transporting liquors not licensed, under which most federal confiscations are now made, however, should be repealed as to illicit liquors, and seizures made only under the provisions of the prohibition law.

VI. Limit internal revenue taxation to legitimate intoxicants

It is a paradox for the government to tax that which its laws do not countenance. Fine, imprisonment, abatement of nuisances and confiscation of materials and vehicles should be removed from this department.

VII. Discontinue separate prohibition administration

The special federal agency for prohibition enforcement aids in producing the present psychological attitude toward prohibition. This law should have no special bureau, no special appropriations, no special attention. It should be enforced through the departments under which its phases naturally fall.

VIII. Remove enforcement jurisdiction from the Treasury Department, except such phases as naturally inhere therein

Smuggling (both border control and coast guard) matters, and the taxation and regulation of legitimate alcoholics are proper subjects of Treasury control. All other phases should be removed from this department.

IX. Make the Department of Justice the responsible head of prohibition enforcement

This is the department generally charged with the enforcement of criminal laws, and under which most phases of enforcement could best be grouped. It should be the responsible head of enforcement.

X. Make United States marshals and state peace officers the chief executing officers

Special assistants, both federal and local, trained in this particular line of work, will be necessary, but should be

responsible to either the United States marshal or the state peace officer, and **work under, not apart from,** the regular law enforcement officers.

The bulk of the work of detection and apprehension of violators, however, should rest upon the regular peace officers. **The same officer who arrests the white slaver or the embezzler should arrest the bootlegger.**

The "prohibition agents" with the apparent stigma attached to the name, should be discontinued.

Nothing Revolutionary

These suggestions, it will be noted, contain nothing revolutionary, nothing startling. Anything revolutionary or startling is impossible of approval by the American people. These suggestions, if followed, would in the course of a few years, do much to correct the false conception of the prohibition law as something apart from other criminal laws.

These are but a few mechanical steps, and form but a starting point—the great, and, in fact, **the only hope for a true success for this law lies in the great good sense of the American people.**

Co-operation of Drys and Wets

To this end, all earnest persons claiming American citizenship, and particularly the members of such organizations as the Association Against the Prohibition Amendment and the Anti-Saloon League, **must unite to co-operate in placing this law and its enforcement, so long as it remains upon our statute books, upon an equal footing with all other laws.**

The great bulk of citizens, fanatics on neither the one side nor the other, are gradually, of their own accord, coming to their senses in this regard—with a little help, a little more tolerance from both sides, and a more intelligent organization of the laws, much will be accomplished.

PLEDGE ALL EXECUTIVES

City Manager C. O. Sherrill
Cincinnati, Ohio

THE National Prohibition Act (The Volstead Act) passed October 28th, 1919, became effective on January 16th, 1920.

Since that act was passed all the states, except five—New York, Maryland, New Mexico, Nevada and Montana —**have passed enforcement acts** under the concurrent authority of the 18th Amendment.

The Amendment has been operative for almost nine years and notwithstanding the open or veiled opposition to prohibition by a large part of the press and many leaders of public thought, **there has been a considerable measure of success in decreasing the drinking of liquors,** as indicated by the almost total absence of drunken persons on the streets of our cities, and by the tremendous decrease in withdrawals of liquor from bond since the Amendment went into effect. While there is a great deal of surreptitious drinking, particularly by the young of the wealthier classes, it must be conceded even by the enemies of prohibition that, on the whole, **the drinking habit has been greatly reduced, with a resultant raising of the standard of living of the American laboring classes.**

The evil resulting from inefficient enforcement is not so much the amount of drinking being done (except in several large cities where local authorities make no effort to enforce the law) as in the **contempt for all the laws of the land by part of the press, by a small percentage of the public, particularly the young of the well-to-do classes and by bootleggers.** It is this contempt of law that must be replaced by **enforcement and observance** of the prohibition laws and the 18th Amendment.

The Plan

The plan to make the 18th Amendment effective in order to be practicable must **use to the best advantage all existing facilities** and **suggest such feasible additions and modifications** as necessary to carry out the full intent of the Amendment.

The plan must include a program, **centering in the President** of the United States, (a) of **enforcement** and (b) of **observance.**

Enforcement

This must be a co-ordination of (a) national and (b) state (including county and municipal) enforcement agencies and methods.

National Enforcement

This must operate under the **direct control of the President,** using all resources of the government necessary to make it completely effective. The principal existing agencies are (a) bureau of prohibition enforcement; customs service; coast guard; coast and geodetic survey; secret service; public health service (quarantine); and (b) in the Attorney-General's office, the prohibition enforcement branch directing and co-ordinating the activities of all the U. S. district attorneys relating to the enforcement of prohibition throughout the United States, so as to present the enforcement cases in harmony with policies of the President.

The major policies of enforcement should be enunciated by the President himself to give the greatest prestige and backing before the courts and before the country, and to make it definitely known that the government is determined fully to enforce the 18th Amendment and the laws pursuant thereto.

The President should make **full use of the diplomatic and consular services in extending agreements with foreign powers** in order more effectively to prevent all smuggling of liquor into the United States over any of its borders. He should also use the resources of the **immigration service and the customs service** to aid the consular service in detecting all the sources and stopping shipments made from

foreign countries with or without the sanction of their respective governments into the United States.

The President should, by negotiation with foreign powers if possible, and if not, by legislative authority, **stop the importation of liquors into the United States for use at diplomatic missions and consulates.** This is a vitally necessary step not only to stop a serious leak in the preventive measures against smuggling, but absolutely essential to prevent the serving of liquors by diplomatic officials, which now sets such a demoralizing example to the American social world.

It is assumed that the President will use the existing organizations and facilities to the fullest extent and that, in **view of the results of the recent election, he will be given by Congress, on request, such additional means and facilities as he may require,** effectively to carry out the government's enforcement program; and to carry out such local state and county enforcement as is not in any case being properly handled by these respective authorities.

Scope of National Enforcement

The national program of prohibition enforcement will be aimed at:

(1) **The complete stoppage of smuggling liquors** into the United States and its possessions, using all the necessary means and methods and services as outlined above.

(2) **The stoppage of all interstate shipment or carriage of liquors, through rail, vehicle, aircraft, water craft or individuals,** through the requirement of manifests of all goods transported between the states, by adequate inspection and supervision of all such shipments, and by **adequate criminal and civil penalties** for violations.

(3) **The stoppage of intrastate shipments of liquor between cities and towns** by train, vehicle, aircraft or other carriers **where such activity is not effectively controlled by the respective states.** The penalties for the violation of the laws relating to smuggling, to interstate shipments and to intrastate shipments of liquor should include **confiscation**

of equipment used in such traffic, and **heavy fines and imprisonment** of those guilty of such illegal transportation.

(4) **The prevention of the sale of liquors and the furnishing of "set-ups" in restaurants, hotels, inns, road houses, clubs and homes, or the carrying of liquors into public places on penalty of having them padlocked,** through actions of the U. S. courts, to enjoin and abate such as nuisances. These actions to be in addition to criminal trials of all offenders against the laws.

(5) **The more effective control and supervision of the source of supply of liquors and the surveillance of permits and permittees and of all liquors released from bond** from the time they leave the government warehouse or government licensed manufactory until they are distributed to the ultimate consumer. The **failure to keep a record of liquor issued on permit until it reaches the final consumer** has been a great cause of abuse. This can be prevented by a complete chain of receipts similar to those used by the Post Office Department for registered letters. **The use of doctors' prescriptions has been greatly abused.** These should be carefully supervised from doctor to patient.

(6) **A more perfect control of and greater restrictions on the use of alcohol in medicinal preparations** under the Volstead Act forbidding these "unless unfit for beverages" and limiting them rigidly to the "minimum required for solution and preservation of the medicinal elements in articles." There are now on the market many medicinal articles supposedly unfit for use as beverages, but which have not been rendered so unpalatable or nauseating as to prevent them from being largely used as beverages. These should be rendered practically impossible to drink in such quantity as to be intoxicating, and their sale should be so controlled as to assure that they will not be so used. This division should do **extensive research work to discover more perfect methods of making solvents without the necessity of using intoxicating liquors or alcoholic compounds,** and to discover **more effective methods of making medicinal preparations unfitted and unpalatable** for beverage purposes.

(7) **The amendment of the Volstead Act, to prevent the nullification** of the 18th Amendment now caused by the Act **in allowing "non-intoxicating cider and fruit juices in the home."** This provision of the Volstead Act, put in at the demand of the apple and grape growers, allows extensive evasion of the plain intent of the 18th Amendment. This authority causes abuses by serving as a cloak for traffic in liquor, in and from private homes, and also arouses hostility at the invasion of the home by officials endeavoring to prevent the traffic in liquors which are legally possessed under the Act.

The abuse of this right to make cider and fruit juices is so flagrant that **manufacturers of these articles are now putting on a widespread campaign of advertising,** saying that they sell and deliver the non-alcoholic beverages allowed by the law which, under a simple treatment, will in a short time become "fine intoxicating wine and cider."

State, Municipal and County Enforcement

This branch of the enforcement program should handle **all local violations** of state, local and national laws, and **conspiracies to violate them,** through the manufacture, sale, possession and transportation of liquors by small groups and individuals. With effective enforcement of the national laws designed to carry out the intent of the 18th Amendment and with the control of the large organized violations by the government as outlined above, the state and local enforcement can readily be accomplished, since the local violations will be by small groups and individuals.

The effective enforcement of state and local laws requires that **all executives,** beginning with the governor and extending through county and municipal executives, sheriffs, police, judges, particularly municipal judges, **shall be pledged in advancement of appointment or election to the program of enforcement.** As in the national program of enforcement, the President is the center and heart of the plan; so **in state and local enforcement, the governor is the head and controlling element.** He should be pledged faithfully

to enforce the prohibition laws and to see that they are enforced by all executives and courts in his state. This power is now in the hands of the governors, and only requires the impetus that can be given by the President to secure its general application. The national program is absolutely in the hands of the President, through his power of appointment and removal of executive officials and his power of appointing judges pledged to enforcement and observance. **Political patronage should have no hand** in the appointments of executive officials, judges or employees engaged in prohibition enforcement in national, state or local enforcement. Merit **and above all integrity** should be the sole determining factors.

Observance

In this branch of the effort to secure compliance with the 18th Amendment, there has been a **deplorable lack of initiative and leadership**; in fact, there has been practically **no effort** made by those in authority within or without the government to build up a willingness and a desire to observe the Amendment on the part of the individual citizen.

Every effort put forth has been limited to **enforcement**—that is, **compulsion.** A tremendous mistake has been made in this failure of leadership, in not securing the backing of the public at large and the press to make of this experiment in social betterment a complete success. So little attention has been paid to **observance** by high officials, by leaders of civic and business thought in each community and by the press, that it is the exception rather than the rule for an individual to refuse to drink or to serve liquors.

Almost no effort has been made by the press to influence public opinion in the vitally important matter of personal observance; in fact, the majority of editors have expressed an open contempt for the enforcement and even more for the observance of the law on this subject. The recognized leaders of the civic and business world, and high government officials, **who have everything to gain by strict enforcement and observance, on account of the destructive**

effect of their failure on the nation's ability, have done almost nothing toward observance; but on the contrary, in most cases, have in private at least flagrantly violated the intent of the law.

In this branch, as in enforcement, the leadership must be taken by the President in molding public opinion in favor—not only of enforcement, but also, and more especially, of observance—that is, personal compliance with the spirit and intent of the law and the 18th Amendment by refusing to serve or drink intoxicating liquors at any time, and by exerting strong personal influence to build up a spirit of law observance. In view of the recent mandate of the people of the United States given in no uncertain terms, that they are determined to have the 18th Amendment observed, the President is more than ever before called upon to take the aggressive leadership in this vitally important matter.

Method of Securing Observance

To set in operation this movement for nation-wide observance, the President should call together a group of the leaders of the country in business, political and civic life, and initiate through this group a national organization, with branches in every state, pledged to observance and to the securing of observance by the mass of decent citizens of every community, with the same enthusiasm employed by the Anti-Saloon League in supporting enforcement. The governors of the states should be the natural leaders of this organization in their respective states.

Under inspiring leadership for observance and enforcement, the 18th Amendment can be made completely effective; and the present undermining of the foundations of our American institutions can and will be replaced by an aggressive rebuilding of the damaged bulwarks of our national respect for law and order.

LOCAL OPTION ENFORCEMENT

Judge Samuel H. Sibley
United States District Court, Georgia

Preliminary Propositions

1. **Local option** in **enforcement** cannot be escaped under our form of government. All our constitutions require local grand juries to indict for serious crimes, local trial juries for all crimes and sufficient evidence from confronting witnesses.

Though the federal prohibition laws are, and under the 18th Amendment must be, general over the entire country, **their application and success will,** although enforcement officers be everywhere uncorrupted and zealous, **differ in each community.**

Voluntary obedience (the main feature of success) will depend wholly on local ideals and viewpoints.

Enforcement will be **successful, or dreaded by the lawbreaker,** only (a) where grand juries will really investigate and indict, (b) citizens will inform and prosecute, (c) witnesses will testify to what they know, and (d) petit juries will convict on sufficient evidence.

Each of these necessary co-operating elements must remain local under our constitutional arrangements for criminal trials. **A failure in any one paralyzes law enforcement and makes it a jest.** The liquor laws meet these facts and their enforcement must take account of them.

2. **Secret crimes which do no immediate and direct injury to any third person and involve no great outrage to public sentiment can hardly ever be controlled by law.** Information on which to prosecute is hard to get, and motive for private prosecution is lacking. Indifference kills enforcement. Moreover, **a law dealing with any human habit, appetite or passion must expect continual contest therewith and will never have complete success.** Consider sex regulations,

which are probably the most ancient of such. Those against whose desires the law operates always consider it an infringement of personal liberty, an unjustified meddling with private concerns. The liquor laws meet these difficulties, and will not achieve perfect success so long as the alcoholic appetite exists. The appetite is however an acquired and not a natural one, and may disappear.

Public Sentiment Stronger Than Law

3. **Every local community,** though composed of different and differing individuals, **tends to have its own general opinions, fashions, and ideals** which control conduct therein. **"Public sentiment" is in practice more important than public law,** hampered as law enforcement is by the local constitutional safeguards. **The example and influence of local leaders is very powerful to support or defeat law.** The liquor laws have the support of public opinion in many districts and are reasonably successful. In other districts they have not, and a very grave situation has resulted.

4. **Profitable crime is again the hardest to suppress.** Its commission is always a temptation to the needy or the lazy or the avaricious, and attracts both criminal talent and capital to its accomplishment. It **also makes natural and possible the corruption of enforcement officers, and even of the appointing agencies.** This touches one of the greatest difficulties of prohibition laws, and leads us directly back to the fundamental fact that it is the **demand for alcohol that creates and finances every criminal operation in supplying it.** The demand can be satisfied by government distribution, which prohibition does not contemplate. The only other effective way of dealing with it is to reduce or destroy it.

5. The **appetite** for alcohol or the **mere fashion of drinking it,** strong enough to cause high prices to be paid for its procurement, is the thing that causes the drinker to break the few laws he breaks, and that furnishes the inducement for the violation of the many laws broken by those who make, transport and sell the liquor and bribe the officers to wink at it.

The liquor laws seek to prevent people from drinking alcohol because of the evil results to themselves, to other innocent persons and to general society in many aspects. Alcohol harms no one unless it is drunk. Yet few liquor laws have prohibited the act of drinking. The 18th Amendment does not.

Nevertheless these laws which seek to moderate drinking by cutting off the supply depend practically for their success on moderating the demand. This cannot be achieved everywhere and at once. Reason and conscience more than law must be its permanent basis.

Information must supplant misinformation and prejudice. Experience, though slow and costly, may have to do a further work for both individual and community. Often it requires a tragedy to show the wisdom and necessity of the law and arouse community co-operation in its behalf.

Six Suggestions

1. **Congress has the right to inform itself** in any way it desires touching matters within its legislative powers. It should at once provide **a continuing, non-partisan, non-political fact-finding commission** in the Department of Commerce, or elsewhere, **independent of the departments responsible for prohibition enforcement, through which the actual results of the efforts at prohibition, state and national, might as far as possible be ascertained,** including their bearing on consumption of alcohol, criminality, health, economic effectiveness, accumulated wealth, official debauchery, cost of enforcement, etc. This information should from time to time **be made public** that it might contribute to public opinion everywhere.

2. Since local as well as general opinion plays so large a part in law observance and enforcement, Congress should provide that **at the next congressional election** but independently of his vote for any candidate or party, **each qualified voter should answer appropriate questions as to his opinion and wishes respecting prohibition.** This would show to the Congress and the country the attitude of each

locality towards it as well as satisfy the general desire of the people to give this expression.

It is of course recognized that no referendum on proposed legislation is technically permissible, nor even a binding instruction of candidates, and that **the vote is only for the information of Congress.**

It might, however, develop advisable law changes, and if decisive ought to appeal to the minority to bow to the wish of the majority.

Teach Civic Duty to Obey Laws

3. **Education,** now at the public expense everywhere, **must be made to include instruction in the physical and social effects of alcohol as ascertained to date, in the reasons and necessity for legal restraints touching its use, a clear exposition of the constitutional basis for entire prohibition, and the civic duty to observe these and all laws.** If no constitutional power exists in Congress to see to this, appeal should be made to the several states.

4. Because total abstinence (distinguished from legal prohibition) has a religious basis in the duty of self-denial for the sake of others, because of the clear Biblical denunciations of drunkenness, and because of the plain contribution of drinking to all sorts of moral lapses, **the churches everywhere should be appealed to through appropriate channels to arouse their congregations on this subject** and seek to instil a proper spirit of self control, of respect for the welfare and weaknesses of others, as well as respect for civic obligations.

5. **Civic clubs, women's organizations, magazines** and **newspapers should be canvassed systematically for aid.** The home circle, reached through these and the churches, is of the greatest, though apparently waning, importance and influence. This and the preceding suggestion can be carried out by some agency **privately financed.**

6. There are weaknesses and defects in enforcement procedure, **mostly inherent in all our criminal procedure, but they are of far less importance than the other things men-**

tioned. Of course greater faithfulness and energy is needed everywhere.

A Novel Experiment

With great hesitation I suggest as **a temporary experiment that in some communities all outside effort at federal enforcement should cease for a while.**

Where there is no local desire for or support of enforcement because of the difficulties suggested above, efforts at it are only irritating, mortifying and demoralizing. **The chances are that if things run wild for a while, the community will wake up and begin the only effectual and permament reform, to wit, that from within.** Let the law stand, let federal authorities vigorously pursue large manufacture, imports and interstate movements, and let the community know that the federal courts and officers are at their disposal **when called for.**

Enforcement heads would judge of conditions requiring their local activity or the reverse. The indifferent and hostile community, having to choose between prohibition laws or none, will often not long hesitate. This sounds loose and lawless, but I have seen it work several times, and it but recognizes in practice what is the fact—that in such matters **there is local option in enforcement.**

AN UNDER-COVER MAN'S IDEA

S. L. K.
Detroit, Michigan

THE writer has been working with the government for about three years as a special informer, so I just know what should be done to stop bootlegging.

I think **the man who makes whisky** should be sent to jail for not less than two years and fined not less than $2,000 or given five years' probation and a fine of $2,000. By probation we have a chance to see him every week, where he is staying and what he is doing.

Second, **the man** in the saloon business **who is selling whisky** should be sentenced for about the same time, two years and $1,000 or five years' probation. **Padlock the place.** But the saloon business is run sometimes by partners, three, four or five. The best way for the agent is to visit three or four different times and get them all.

I have had twenty years' experience working for the public. I know what should be done with offenders. I should like to have myself about 50 men with me and I could show how. The man who makes whiskey is not selling but hires somebody else and delivers for them and makes for them, **but he only collects money from those places which buy.**

Now to get them the agent must have enough experience and know how to get in, because it is very hard to talk to the man when coming as a stranger. That means the agents must have enough time and enough money.

An American born and raised in this country who breaks the law should lose his citizenship and the foreigner who comes to this country and breaks the law **should be sent back to his country.** That is the only way to cure them.

Please keep this confidential as to my address as I was almost beaten to death at one time in 1926.

LET JURY MAJORITIES DECIDE

William B. Smith, M.D.
Township Judge, Kernville, California

Can the 18th Amendment be Made Effective? Certainly!

BUT if it is being enforced hopefully or satisfactorily **now,** then my mind misinterprets the evidence brought in by my five senses—sight, hearing, smell, taste and touch.

Its failure constitutes one of the **major problems in the hearts and minds of parents** who are now bringing up children under the conditions brought about by that constitutional law and its enforcement.

If the younger generation is forgotten in deference to the muddle-headedness of this present one, the nation is going to suffer permanently.

The only excuse a doctor, who is also a judge, might have in entering a manuscript in a contest of this sort is that any one who has a clear thought to offer is remiss if he does not take advantage of any opportunity to get it before the public.

To hope to correct the enforcement of any major law in our democratic form of government we must know—first, what its fundamental weakness is; second, what the machinery of enforcement lacks to make it effective, and third, the logical paths that may be travelled toward betterment.

The fundamental weakness of the 18th Amendment lies in the fact that it is a **sumptuary law written into the Constitution of a democracy.** The nearest previous approach to that in our Constitution is the amendment devised to correct disenfranchisement of the Negroes in the southern states. Nullification has been the result in every state where the race problem pinches the dominant white voters. It does not constitute a major problem in our social and political life because 50 per cent of the voters of this country are

careless about the right of their own franchise and fail to go to the polls when they might.

But 100 per cent of us are vitally concerned with our eating and drinking and the private conduct of our lives. A sumptuary law proposes to regulate these vital private functions for the general good. **History tells us that men cannot be forced or legislated into bettering their personal habits.** That is—it has always failed in a democracy where laws are made by majority vote. **Sumptuary laws ordinarily need the machinery and the centralized authority of a monarchy or a dictatorial form of government,** as illustrated by the sumptuary laws of ancient Rome and the brilliant accomplishments of Mussolini in modern Italy.

Dry Voters Think and Act Wet

We have to deal, then, with **a law that lacks for us the necessary centralized authority.** This weakness cannot be corrected. Wise men also see that the **18th Amendment cannot be repealed in this generation.** So we are compelled to muddle and fumble along the way of majority rule, when **large blocks of voters who helped to put over the Amendment itself vote dry and think and act wet in their offices and homes.**

The law itself is vitally handicapped in the house of its friends.

It is no wonder that **the enforcement of it has rapidly grown to be a shame and a menace to our boasted democracy.**

It seems to this author also to be self-evident that the dual federal and state enforcement mechanism cannot be corrected by the elimination of the local mechanism and the enlargement of the federal personnel as has been so often advocated and is now cried as one of the political party creeds. **A sumptuary law must depend largely upon local officers and local courts who maintain personal touch with the citizenry.** This should be self-evident. Therefore, correction of the enforcement mechanism must apply alike to federal, state and local officers and courts.

The first definite suggestion that experience teaches us may be made to correct corruption and inadequacy in the policing of a law is to **take the police force out of preferential politics and put it in the civil service, from the President's cabinet on down to the least local investigator and deputy.** This can be done by act of Congress and by state legislation. It should be agitated through the same wide general agencies as were instrumental in forcing the amendment into our Constitution. Somebody's money will have to start the ball to rolling.

But the machinery of enforcement has two constituent parts, the police force for investigation and arrest, and the courts for hearing and punishment of violations brought in. The policing of the 18th Amendment may be corrupt, bribe-ridden, two-faced, and generally inefficient, but **this is the lesser evil** in the enforcement mechanism.

The major weakness lies in the courts, both federal and local, in every case where a jury trial is demanded. The judges are not at fault generally, and this author is a local township judge. The same judges who now hear liquor cases can and will enforce the law with sufficient and just punishment when, and if, they can get convictions. **The weakest link in the chain of enforcement is our boasted jury system.**

Local Juries Won't Convict

In this county, one of the largest in the second largest state of the union, **a jury conviction has not been obtained in a liquor case in the last two years,** and **in my own local court a jury conviction of a liquor case has never been secured since the Amendment and its enabling acts went into effect.**

Our local constabulary this month made a brilliant and successful raid on a local liquor merchant, and secured a sack full of potent evidence before it could be broken up. The man pleaded not guilty and demanded a jury trial. We expected to lose the case in the jury room, therefore the district attorney got in touch with the defendant's attorney and with myself and we compromised by promising a mod-

erate fine if the defendant would plead guilty. He agreed and was fined. But **what could more clearly picture the muddle-headed inadequacy of the local courts** in making enforcement effective?

That this handicap is any less in the federal courts is only true to the extent of the greater prestige they carry and the **wider scope in selection of jury material.** The fact remains that a jury must be selected impartially from the general legal citizenry. In the case of a sumptuary law it is impossible to get twelve men and women who will swear that they are impartial and then hear the evidence and give a decision on that basis. Therefore **to enforce the 18th Amendment in our courts the jury system must be revised to fit the conditions that the law meets in our social and political body.**

This can mean only one practical thing—**the abrogation of the ancient and honorable requirement of an unanimous verdict from that jury.**

The majority ruled in the matter of enacting this sumptuary law, and therefore a majority decision in the jury room is the only fair and adequate fashion of meeting the enforcement requirements of the law.

Even a two-thirds majority in a jury of twelve would still protect the defendant in his rights of citizenry, would still regard and treat him as innocent till proven guilty, but it **would remove the disgraceful and ruinous handicap under which the law now staggers.**

Such correction could be made by Congress and by the state legislatures. It needs behind it the same general agencies that put the law into our Constitution. Somebody must start the publicity, take the initial odium, and start the ball to rolling.

Violators Want Unanimous Juries

The most powerful opposition to such enactments **will come from the legal profession itself, backed and abetted by the bootleg fraternity.** This author spent some time in arguing the matter in the district attorney's office of this county.

The legal force there arose in mass and fairly shouted—"No! No! You must not tamper with our jury system. It is the last bulwark of the poor man, his last protection against the rich and powerful." That is "bull," all right! What the lawyers meant was that it is the bulwark of their client in private practice.

The ordinary law-abiding citizen will be just as safe and protected with a legal majority jury as he is with the present unanimous verdict. Our good friends in the prosecutor's office knew that there are fertile years of private practice ahead, and none of them cared especially to try a case on its merits—what each and every one is concerned about is winning for his client, winning by jury psychology, by manipulation of the mechanism of the law, playing the game!

A vital sumptuary law cannot be enforced by jury trial as long as unanimous decision is required from the twelve good men and true that sit in the jury box. They may be honest in swearing that they are impartial and can give the evidence just weight and due thought and a true verdict render. Invariably in that group will be one or more men or women who have been violating the very law they are hearing, at least they will be of the character of those who vote dry but think wet. Only by taking cognizance of this fact and giving the law a fair chance by removing the necessity of a unanimous decision can any sort of adequate court action be secured. Without due and fairly sure punishment in the courts, how can enforcement be secured?

Judicial System in Disrepute

Sentimentalism and mob psychology are fast bringing our whole judicial system into disrepute. Contrast the status of the general courts in England with those of our own. They have no better judges, they certainly have no better class of citizenry, but **punishment is sure and swift.** Sentimentalism has not wrecked the system there and it ought not be allowed to wreck it here in America. If we face the problem squarely and act logically the 18th Amendment can and will be enforced.

There is a corollary to this matter of correcting the enforcement mechanism that should not be forgotten. After all is said and done, any law, civil, political, or sumptuary, will be effective in just so far as the citizens of a country are for it and respect it and abide by it. Enforcement comes only after the act of violation, and **when violations are as general as they are now of the 18th Amendment, reliance on enforcement alone puts the cart before the horse.**

Education of the citizenry who violate the law in deed or in thought and sentiment is the vital and primary thing in incorporating a law into our national habits of life. In general the experiences of these last few years have taught us that **such a law should be enacted only when general sentiment is overwhelmingly for it, and it then becomes not sumptuary in the sense of regulating our private expenditures and mode of living, but corrective of those who will not live peaceably with the general sentiment of their time and place.**

Educate also by Enforcing

We passed this 18th Amendment before our general citizenry were educated to a realization of its implications and its consequences. Now that it is done and has become a vital part of our laws, **adequate enforcement is the only possible way to educate the public up to it or crystallize effective demand for its repeal or revision.** The thing is done and we are now living with it. Therefore we must be willing to give it a fair and decent trial.

Most sensible citizens can be made to agree to this general proposition, and from that agree to support the logical changes in our mechanism of enforcement to secure that logical end. **Taking the graft out of the policing mechanism by the only means we know—civil service for all appointments, and then, more essential still, change our jury system to fit the conditions as we know them to exist, make a majority rule decision legal.**

LIGHT FINES ARE JOKES

Silas E. Speckman
United States Commissioner,
Springfield, Colorado

THE enforcement laws making the 18th Amendment to the Federal Constitution operative are **largely a patched-up plan,** such as a not too whole-hearted Congress might enact, **yet containing so much good and useful material that it is not desirable to undertake to restate the law in an entirely new act,** which would likely prove impracticable to a wiser yet not chastened Congress that might refuse such enactment in toto.

A careful reading of the 18th Amendment and the National Prohibition Act reveals at once that the statute is broader in its wording than the Amendment itself. The Amendment does not state that possession of liquor is unconstitutional, yet the statute in the plainest of language provides that possession may be illegal, and necessarily so.

Yet **one of the weakest points** in the statute is the provision in Section 33 of Title II, which **allows privately owned stocks of liquors at the date on which the 18th Amendment became effective to be legally held if accounted for within a certain time.**

Private Stocks Block Law

The private ownership of large stocks of intoxicants by wealthy and influential citizens **has brought about more disrespect for the enforcement laws and enforcement officials than perhaps any other single provision of the prohibitory laws.** Section 33 to Title II should be amended to provide in view of private possession covered by statutory provision that the United States shall **confiscate all such privately owned stocks of liquor, whether large or small, and reimburse the owner in cash for his loss,** com-

puted at market prices in effect when the 18th Amendment became operative.

The penalties provided for violation of the provisions of the Act set forth in Section 29 of Title II of the National Prohibition Act **are inadequate to compel observance,** particularly on the part of wilful and perverse wealthy violators of the statute. **A light fine of $100 or $200 is no punishment but rather a joke and an incentive to further unlawful acts** to the man of wealth, or even to the ardent bootlegger whose profits are generally conceded to be enormous. **A jail or penitentiary term of sufficient length to prevent abuse of it must be added.** The law violator of little means will "lay out" the short jail sentence and plead the pauper act for the remission of a fine imposed, as has been repeatedly done under existing law.

Fines are now less than those provided for simple cases of perjury under Section 125 of the criminal code.

Illegal transportation should be specifically covered by fine **and imprisonment** as well.

Suggested Prison Penalty

The first paragraph of the section under consideration should be amended to read as follows:

> "Section 29. Any person who **manufactures, sells, or transports** liquor in violation of this title shall for the first offense be fined not less than three hundred nor more than one thousand dollars **and imprisoned** not less than six months nor more than twelve months, and for the second or subsequent offense shall be fined not less than five hundred dollars nor more than five thousand dollars and shall be **imprisoned** for not less than one year or more than five years. The foregoing schedule shall apply to every portion of the United States, including the Canal Zone, Virgin Islands, or other territory owing allegiance to the United States."

The enactment of similar provisions by the legislatures of the several states should be provided for as to penalties for violation of the statute.

Dismiss Law-Violating Enforcers

Inasmuch as some high and inferior officials charged with the enforcement of the prohibition laws have in the past been open violators of the National Prohibition Act and wholly out of harmony with the spirit of the constitutional Amendment, and some have succeeded in obtaining a civil service status for themselves largely because of various influences, however upright though misinformed, acting in their behalf, the statute should be amended by the addition of the section **allowing the Prohibition Commissioner to dismiss from the service without formal hearing any such officer** whose acts tend to show any leaning toward or favoritism for liquor or friends of liquor interests.

A system of prizes or awards for information leading to the arrest and conviction of open-country rum-runners to be offered by the Prohibition Commissioner should be provided by statute. Little is being done to check this large and growing evil.

The people have spoken in tones of thunder in the recent election and the Congress dare not fail to strengthen the prohibitory laws in the instances above outlined.

PUT TEETH IN THE LAW

Congressman Gale H. Stalker
Elmira, New York

MAKE it a felony to violate the National Prohibition Act's provisions against the illegal sale, transportation, importation or exportation of intoxicating liquor, by providing for a maximum penalty of $10,000 fine or imprisonment not to exceed five years or both.

Deport alien violators or cancel their citizenship papers or both.

Provide mandatory jail sentences for all commercial violators of the National Prohibition Act.

Bills carrying these penalties introduced by me have had the approval of the Department of Justice, the Treasury Department and many dry organizations.

Testifying before the House Committee on the Judiciary, March 2, 1928, Mrs. Mabel Walker Willebrandt, Assistant United States Attorney-General, as a representative of the Department of Justice, urged the passage of this bill. She said that in large cities judges had complained that **the present maximum penalties are too low and insisted that if they had the discretion to impose heavier sentences against big offenders they could stop the sale of intoxicating liquor to a far greater extent than they do now.**

At this hearing Mrs. Willebrandt further said: "The trouble at the present time is with the big sellers and the big importers and not with the small bootleggers. Under the present law the maximum penalty for the first offense is too small and **in practice there is no 'second offense' because the defendant does the shifting necessary to make all offenses the first.**"

CONSTANTLY TEST OPERATING EFFICIENCY

Justus Stalnaker
Governor's Office, Charleston, West Virginia

THE effectiveness of the 18th Amendment of the Federal Constitution depends upon two things—**the efficiency of its enforcement and the support which it receives from the public.** Before considering how these factors can be strengthened it is well to get a clear mental picture of the influences which tend to weaken the law; for such a picture will show where corrective effort should be centered.

Under existing conditions, the 18th Amendment is not so effective as it was hoped that it would be; because **federal, state and local enforcement of the law is not always vigorous, equal and judicious. This causes a lack of public confidence and a tendency to wink at violations.**

Rightly or wrongly, many people believe that graft and politics are interwoven with prohibition enforcement. This belief weakens the law's effectiveness.

Then too, enforcement officers cannot be everywhere all the time.

Considerable confusion exists because in the various states and local communities there are many differences in the nature of the statutes and regulations which supplement the Amendment.

To these influences may be added the fact that **a knowledge of how to manufacture intoxicants has spread among the people, making it more difficult to concentrate upon sources of supply.**

Also great quantities of liquor are imported illegally into the country.

Bootleggers make money by violating the law. Others

know that it often is possible to influence people by getting them under the influence of intoxicants.

Many people have a craving for drink which cannot be removed by a mere law. Some feel that they have a right to live their lives in their own way, and this feeling causes them to have a tendency to rebel against restraint.

And also, a new element is being added to the population **—an addition of young people who know but little about the evils of the open saloon,** who are active and adventure-seeking, and who find that it is considered more or less smart and romantic to be bold and skillful enough to take a drink and "get by" with it.

Analyze the Situation

The combined results of these influences destroy much of the effectiveness of the 18th Amendment and its subsidiary statutes and regulations.

To make the Amendment more effective, it is **necessary that the supply of and demand for intoxicants be reduced.** The first step in bringing about this dual result is to **make a scientific analysis of the situation** so that its favorable and unfavorable aspects will be charted clearly in the mind.

Where are the dry, the moderately dry, and the wet localities?

What has produced the condition which exists in each of these areas?

What effort will be necessary to bring about a satisfactory condition in each of them?

Should special attention be centered on the wet localities or should a concerted drive be made on the moderately dry sections until a satisfactory condition is produced in them, the influence of which gradually will squeeze the wet spots into smaller and smaller zones?

What can be done to get a more uniform procedure under the statutes and regulations which supplement the basic law?

An estimate of the situation along these lines will give accurate information which is essential for efficient work.

The next thing that should be done is to **stop or curtail the illegal importation of liquor.** Since most foreign countries are wet and since rum running offers large profits, this will be a difficult thing to do; but as the United States has great financial, social and political influences to play upon, it should be possible to convince foreign governments that it will be to the best interest of their peoples to show that they want to help in this respect. When proper treaties are negotiated, detailed methods which will at least make rum running more difficult may be devised. **The spread in foreign countries of sentiment for temperance** will make it easier to curtail the liquor traffic.

Avoid Winking Enforcers

Another thing to concentrate upon is the **selection of national, state and local executive, legislative and judicial officers, who will themselves obey the law without winking.** This is of vital importance; for the attitude as well as the acts of these officials does much to mold public opinion and to set a fashion of conduct. In many parts of the country, it will not be possible immediately to select such officials, but by centering in turn upon those who offer the best chances of success such a weight of experience and sentiment can be built up that it will break down the barriers of the more difficult localities.

Assuming that official and financial support has been secured, the next step is to build **a more efficient agency for the enforcement of the law.** The first requisite for this agency is a standard of requirements which will secure **a personnel of character and ability**—a personnel that will have its own respect as well as that of the public.

Since it already has the experience and the machinery, **the Civil Service Commission** should be charged with the responsibility of selecting applicants who meet the requirements. Successful applicants then should be given **a vigorous practical schooling,** where every effort should be made

to test them and to weed out the unfit until only the best remain for final appointment.

For those who are appointed, **advancement should be based upon a fixed policy of promotion on merit**—a policy, the working of which should receive careful official security. **Decorations and citations** should be awarded for meritorious service just as they are given in the army and navy. Care should be taken to **cultivate a professional attitude that looks upon violations of the law as indications of a diseased or criminal mind.**

A corps of inspectors similar to that of the post office department should **examine the habits, associations, expenditures and efficiency of the agents and officials.**

From time to time **agents and minor officials should be moved into new territory** to guard against the danger of entanglement in local politics.

An enforcement agency organized along these lines will develop a high morale. It will take pride in its work. It will be stimulated by a healthy competition. It will have its own respect and that of the public. And it will be as nearly free from graft and politics as it is possible to have any organization.

Make Observance Fashionable

Another important thing to be done is the **organization of public opinion,** so more people will support the 18th Amendment. In fact, public opinion, in its final analysis, is **the solution of the entire problem;** for a strong public sentiment by pressure through its officials can get the co-operation of foreign governments; by pressure upon officers it can make them more efficient; and by pressure upon itself, it can influence many individuals to refrain from drinking.

Perhaps the greatest difficulty to be overcome in enforcing the 18th Amendment is the fact that in the highest social circles it often is considered very smart and fashionable to take a drink of liquor. **When it becomes fashionable to obey the law, the problem will be half solved;** for the example of social, business and governmental leaders

soon will filter down through all strata of society. From time to time, the President of the United States, the governors of the states, and business and recognized social leaders should stress the necessity of respecting the law. This activity should continue until respect for the 18th Amendment becomes established thoroughly as a public attitude.

Through moving pictures, stories and magazine articles, **the social and economic value of prohibition should be kept before the public.** Prizes should be given for stories and articles that foster respect for the law.

Annually, a special award should be given to the one who does most during the year to make the 18th Amendment more effective.

University Leadership

And since the problems that are associated with the 18th Amendment have such a far-reaching effect on the national life, **a thorough course of instruction should be given in the public schools,** covering the history and the physical, social and moral effects of intoxicants. As a sort of master-wheel in this scheme of instruction, **a department should be established in one of the leading universities to collect, classify and evaluate the facts** associated with the 18th Amendment in its economic, social and moral aspects. Such a department will add dignity. It will anchor the subject on a solid basis of scientific investigation. It will make available pertinent information for governmental, business and social leaders and workers. It will serve as an impersonal check on the enforcement of the law and on the trend of public sentiment, thus giving criteria for adjustment to changing conditions.

As public opinion in the United States becomes more firmly fixed for enforcement of the 18th Amendment, it will tend to have a beneficial effect upon the sentiment in other countries. And as sentiment for temperance grows throughout the world, it will become easier and easier to enforce the prohibition laws.

HIRE INFORMERS AND POSSEMEN

Isaac Stapleton, Arkansas
U. S. Commissioner, Former Deputy Collector of Internal Revenue

PUT into practice the methods used during the administrations of President Roosevelt and President Taft in the enforcement of the internal revenue laws, to wit:

1st. When a citizen of some remote district, 25 to 50 miles away from Harrison, Arkansas, came in here and reported the location of an illicit distillery near his home, I would inform him that the government would pay him $10 (or more as might be fixed by the U. S. Treasury Department) for his services as informer and guide to conduct the U. S. officers to the location of the said illicit distillery, and in addition would pay him a per diem and mileage for his services as a witness in the case, should he desire to be known as a witness; it being understood that said illicit distillery should be found set up and in operation. This fee of $10 to be paid informers for any seized still up to 100 gallons capacity, larger stills to be paid for in an increased ratio up to a maximum of $50 for stills of 1,000 gallons or more.

2nd. On receipt of information as to the location of a still, I would summon not more than three special possemen to aid in the capture of said still and its operators, paying them $4 per diem and expenses for their services while on duty; said possemen to be discharged from further service as soon as the still and operators were captured. This would amount to about two days for each raid in this section of the country, and **would be much cheaper than to have five or six prohibition agents assemble here from remote sections of the state** (as I have often seen), **and at the same time would not leave several sections of the state unprotected while raids were being made.**

3rd. I would use the same methods in the suppression of the illegal traffic in intoxicating liquor, paying $10 to any person who furnished sufficient evidence for a conviction in the case of a retail liquor dealer, and $25 for a conviction in the case of a wholesale liquor dealer. **Only in rare instances would there be any necessity for special possemen** in the capture of liquor dealers, as warrants would be obtained on the information, and arrests made by the forces of the U. S. marshal under the rules and regulations of the Department of Justice.

WHY ENFORCERS HOP-SCOTCH

Will P. Stephenson
Judge, Court of Common Pleas, West Union, Ohio

IT is difficult for 50% of the people of any country, plus **a few, to regulate the conduct of the other 50% of the people, minus a few.** Such is the status of prohibition in the United States today.

Prohibition will never be enforced in many of the states by state authorities.

State authorities to be successful must work in conjunction with county authorities, with sheriffs, constables, marshals of villages and policemen in the cities. **The violators of the law are acquainted with the local officers. They know each and every local officer at sight—and why not? They were reared with them.** A county is but a small community in this age of rapid transit. The culprits are many times friends, political and otherwise, and in some instances relatives of the enforcement officers. The officers in power owe some of them political debts. There's an umbilical cord between local officer and local culprit that should not exist, but it does, and you have to reckon with it.

Local officers can not keep their every move secret from every one and they cannot spot all the lookouts. **Three times out of five, contemplated raids are "tipped off" before they are made.** Violators, instead of being arrested, are warned.

In many jurisdictions the *third offense* is triable by a jury. **This is pie for the violator,** because he knows the state must have an air-tight case against him or he will be acquitted by the local jury, many of whom he knows, and possibly to some of whom he has sold his wares. The actual moonshiner or bootlegger is very poor and most of them have large families. If they are sent to prison for a

long term, the county where the crime is committed must care for the children in an orphanage and the wife is placed in the infirmary; thus, it is seen that the county pays, and what does it get?

Counties Milked Dry

The moonshiner and bootlegger, however menial, have friends, maybe relatives, whom the courts and officers have to respect. When they are placed under arrest they appeal to these relatives and friends, who in turn make personal appeals to the executive officers and the courts.

It would be futile to say that such procedure does not obstruct the natural and easy flow of justice.

Futile to say that the liquor element, even in the rural districts, is powerless.

The writer knows of at least one instance where a **capable, fearless, impartial, conscientious judge of the court of common pleas was defeated for re-election because he dared to assess a fine against a prominent citizen of his county for unlawful possession of intoxicating liquor.**

Such incidents are **broadcast by those liberally inclined for the very purpose of intimidating the courts and their officers,** and to some extent, at least, such propaganda is effective. Why?

The state, township and municipal judges, together with their administrative officers, must be elected. To secure election they must receive a majority of the votes cast at the election at which they are candidates.

Law-breakers Swing Elections

Moonshiners and bootleggers are not disfranchised. They can vote and they will vote. That is not all; every community has its so-called **"personal liberty" disciples** who do not traffic in intoxicating liquor further than to buy it and drink it—they **vote with the moonshiner and bootlegger.** If the vote in the political district is close, the "wets" carry the balance of power—and they use it.

Candidates have their ears to the ground. If they did

not, they would not be candidates; certainly not successful candidates in this day and age. They ascertain the popular desire and promise their constituents accordingly. There may be other issues in their bailiwick, not so popular perhaps, but whose advocates can and will deliver a goodly number of votes. They must be placated—and they usually secure some concessions.

It is a deplorable sequence—the candidate goes into his office under his oath that he will enforce the law, he has promised his constituency at large that he would enforce the law, and he **has promised a particular clique that he will "soft-pedal."**

If he adheres strictly to his law-enforcement plan, the liberals are against him for re-election. If he "soft-pedals" the "straight-faces" are against him, **consequently he must "hop-scotch," do some more placating or be a one-termer.** One who has tasted of political sweets dislikes to be a one-termer.

One does not have to draw upon his imagination nor consult his credulity in order to know that these conditions exist. "He who runs may read."

Query: "How can the prohibition law be best enforced?" **It can not be rigidly enforced for the reason given in the first sentence of this manuscript.** For that matter, no law is rigidly enforced in this or any other country. Reasonable enforcement is all that can be hoped for.

The only way to stamp out the trafficker is to make the traffic so unprofitable that individuals will not engage in it, and such an end will never be attained if enforcement is left largely to the states.

Only Federal Power Can Enforce

For the reasons herein given, **if there is to be reasonable enforcement** of the prohibition law, **the federal government must enforce it.**

True, the number of federal district judges would have to be quadrupled. A veritable army of United States mar-

shals, deputies and prohibition enforcement officers would have to be provided.

It might be insisted that our economical(?) Congress would refuse to make such provision and would deny the necessary appropriation.

Grant that this all true; **if the people want enforcement, they can elect a President favorable to enforcement. He can put the proposition squarely up to Congress.** If Congress refuses to act, the President can take it to the people who will give him either a sympathetic Congress that will provide the necessary legislation or a recalcitrant one that will throttle him. **Should it turn out to be the latter, then it would be self-evident that the people do not want law enforcement,** and the law would best be repealed.

The Volstead Act gives plenary power to federal judges and administrative officers to enforce each and every possible violation of the National Prohibition Law, and the court of last resort has held that prohibition is a matter of federal cognizance. **What more is needed, except to increase the working force?**

Why should the enforcement of the Prohibition Law be placed in the hands of the federal government? The reasons are obvious.

Many states are unfavorable to prohibition enforcement. Liquor (of inferior quality, of course) flows in these states without stint.

Adjoining states may desire enforcement, but **there is a steady stream of illicit liquor coming across the line from the self-acknowledged wet state.** It is a case of contamination—and **what is true of the states along this line is true of different localities and communities in the same state.**

Federal Judges Independent

Federal judges hold their offices for life or during good behavior. Administrative officers could be placed on the civil service list and they would have the same tenure of office. **They would not be required to court the electors' favor.**

The federal judge has **infinitely more power than the state judge.** He can impanel a jury. He can comment on the evidence, and if he is diplomatic, he **can instruct a verdict by informing the jury what the testimony tends to prove**—from his viewpoint, of course. He can summarily punish for contempt of court—a power that judges in state courts exercise with much fear and trembling.

Juries in federal courts are chosen at large from the judicial district. **They do not know the law-violators or their friends once in a thousand times.** In fact, **they have no enemies to punish or friends to reward,** they are too far removed from local prejudices and influences. The punishment for all violators of the National Prohibition Law could be made more severe and all of them given jury trials. The machinery might be denominated ponderous and cumbersome, but its deterrent effect would compensate for the effort.

Administrative officers should be shifted from state to state, and locality to locality, at frequent intervals. If they remain in one place too long, they are inclined to become too friendly; besides, the violators soon learn to "spot" and avoid them.

Prohibition, as it is enforced in most jurisdictions today, **is farcical in the extreme.**

Little or no argument can be advanced in favor of the use of alcoholics as a beverage; and **little or no argument can be advanced in favor of prohibition as it has been and is being enforced.**

Sobriety, as a finality, must be inculcated. **We can no more legislate morality into the individual than we can legislate value into the picayune or life into the corpse.**

USE LOCAL INFORMERS

A. E. Sumner
Justice of the Peace, Fennimore, Wisconsin

AT this time, in the State of Wisconsin, enforcement of prohibition is **none of the local officer's business.** He gets nothing for that kind of work as the government has a force of a few hundred men to cover an entire state and these men get the pay, so **the local city marshal or constable thinks, "let those men do the work."**

There is only one sheriff in each county, he cannot be everywhere. **Anyhow, the sheriffs are accused, in whispers, of being in with the bootleggers.**

Here is the idea. **Pay a reward of $25 for information leading to the conviction of a bootlegger.**

Let the informer go before the local marshal and justice of the peace and another witness or two, swear to the truth of his complaint, and then **let the marshal demand a search warrant** from the justice.

On due trial, if defendant is found guilty, permit the city, village or township to **fine or imprison without waiting for federal or state action** and if the bootlegger prefers to pay a fine let the money be divided between the city or village or township after the officers have been paid, and perhaps the government, or else turned over to the school funds.

This is simply **permitting each community to enforce on its own account** without having to wait for federal officers.

We have men who will chase a wolf for a week in the hopes of getting a small reward from the state and those same men would give up a bootlegger for $25, believe me.

DISMISS HOSTILE JURORS

J. R. Taylor, Former Prosecuting Attorney
Martinsville, Virginia

THOUGH having been a public prosecutor for more than 18 years, because of the many difficult questions I modestly enter a discussion of the prohibition laws.

It cannot reasonably be expected that within a few years prohibition laws should be better enforced than, or even as well enforced as, other criminal laws, because **through the many centuries of the unrestrained use of liquor there has been a continuous tightening of its hold upon the physical appetite and the money-loving disposition of the race.**

Admitting these laws have fallen below the standard of efficiency maintained in the enforcement of other laws, I will as briefly as possible endeavor to present my views as to the causes, based upon 18 years as prosecuting attorney.

Some contend that the reason for the deficiency of these special laws is due to the fact that public sentiment is not strong enough to hold them to a high dignity because before the enactment it was not considered intrinsically wrong to make liquor and drink it as a beverage; and that after it was prohibited with penalties more or less severe, it became repulsive to this class of believers. It may be true that a few people antagonize the law on this ground; but the number who do not believe the unrestrained use of intoxicants has not been the curse of the world is too small to create much sentiment. The well informed, including many of the violators, admit that any legislation restraining the use of intoxicants is wise.

Sentiment against prohibition has not been aroused because liquor is considered harmless but because of its grip on the physical appetite of the consumer and the money-loving disposition of the trafficker.

That the law may be held in the proper reverence and

dignity, and enforced to the same degree of efficiency as the laws against murder or other crimes there should, in my opinion, be some additional legislation.

It is true, if there were no consumers there would be no bootleggers; and just as true, if there were no drinking as a beverage the largest part of the world's woe would be avoided. It is also true that the devastation by intoxicants is not caused by the quantity in existence, but by the quantity imbibed as a beverage; and surely the amount made is regulated by the demand.

User Is Guiltier Than Seller

If the evils of intoxicants come from their use as a beverage, **the user is the most guilty of all the actors in the liquor tragedy.** The making of it is the beginning, the consumption the unending climax.

Instead of this feature being emphasized by the law-making bodies by the passage of laws calculated to deter the consumer, the stress has been laid on the acts leading up to but stopping short of him. The consumers outnumber the bootleggers at least 25 to one, and while they are regarded as more respectable, they have created practically all sentiment against enforcement.

It will be observed that **neither the Volstead Act nor any of the prohibition acts of the states prohibits the giving orders for or the purchasing of ardent spirits.**

Let the states and nation alike **penalize the act of purchasing the same as that of selling.** This is simple legislation, the working of which would be practical and effective in reducing the flow of liquor. It would reach that numerous class which, if deterred by rigid penalties, would put the bootlegger out of business.

The acts of **drinking in public places and voluntary intoxication** are considered so trivial they are punishable in some states by fines of $5 to $10, and **are not made offenses at all by the Volstead Act;** when in fact **they should be penalized in the states and nation** with the same severity as other acts of bootlegging.

The man with the fumes of liquor in his brain is the real menace—the one who has put himself voluntarily in that demented condition which usually results in disaster, the very condition which the prohibition laws were intended to prevent.

If liquor had never been used as a beverage, or even if it had never been drunk to intoxication, there never would have been any need of prohibition. The proposed legislation would reach a large and dangerous class of offenders, their guilt being the very easiest proven.

Make Home Intoxication Unlawful

Let me make one illustration out of many which might be made. At a criminal court this year in this country, a young man was sentenced to imprisonment for life. He had purchased liquor and become intoxicated in his home. While in that condition he murdered his wife. What tremendous effects. His wife dead, his small children in the homes of strangers, and he in prison for life. **No law to restrain his conduct up to the murderous act.** Buying and drinking liquor even to intoxication in the home are not prohibited by the states or nation. Only **public** intoxication, and that penalized only by the states and by small fines.

If public intoxication is punishable in many states because of the evil effects on the public; and if the home is the most sacred place on earth, because there the character of every young life is formed, **why should not liquor, which is known as the arch home wrecker, be prohibited from being drunk there to intoxication?**

Congress should **amend the Volstead Act, making intoxication in the home as well as elsewhere an offense of equal gravity with the act of bootlegging.** And all states should do likewise.

Disqualify Wet Jurors

Another defect in the machinery of enforcement is in the **trial jury laws. No greater farce can be pulled off than**

the trial of a liquor case before a wet jury, usually resulting in the acquittal of a guilty defendant after much expense has been incurred. Even one man on a jury not in sympathy with the law usually effects an acquittal or a hung jury.

At present there is no complete way to rid the jury list of objectionable men, **because of no provision making hostility to the law a disqualification.**

There should be legislation in the states and nation disqualifying those for jury service, in liquor cases, who are not in harmony with prohibition. It should require the trial judges and prosecutors to ask each juror if he believes in the law and its enforcement; and if upon proof it is shown he does not, he should be discharged.

The proposed principle is made law in many states, Virginia, for one, by which jurors who do not believe in the law imposing the death penalty are discharged.

Jurors Should Be Partial to Law

Some might say this law would deny to a defendant an impartial jury. It is true he is entitled to an impartial jury, but this means **the jury must be impartial as to him and not as to the law.** For it is just as true the government and the states have the same right to juries who believe in the laws they are to administer.

Because of this defect, judges and prosecutors, realizing the futility of going to trial with enemies of the law on the jury, have often accepted, by way of compromise, light punishments, because it was making the best of a hopeless situation.

If this defect is remedied by proper legislation **it will come nearer making this country dry than any other conceivable thing.** The greatest inducement the violator has to continue his law-breaking career is the hope to have those of his class try him.

There is much need of remedial and constructive legislation in regard to the appointment of enforcement officers. The laws of the states and nation should hold the

appointing authorities to the **most searching investigation of the suitability of an applicant** before an appointment is made.

Higher Type, Higher Paid Enforcers

As in selecting jurors, the authorities should be required to fully learn of the applicant's ability for the position; and above all, to know he has a fixed and substantial faith in the law.

One strong character is worth more than a host of weak characters.

That good men might be induced to serve, **sufficient pay** should be provided. **And confiscated property should help pay the increased cost.**

A weak and uncertain character working on short pay, coming in contact with the bootlegger and his money in the night when no one knows of what transpires except the two, and the officer knowing the bootlegger cannot give him away without exposing himself as well, is liable to bribes.

The 18th Amendment is complete, and needs no changes, and in its purview is unusual in this respect:—it gives Congress and the several states concurrent power to enforce it by appropriate legislation, and **that state which has not done so has failed in that loyalty to the nation which is contemplated in this great Amendment.**

The Volstead Act should be amended to cure these defects, as should state laws also. All of which would be simple legislative enactments, not involving the difficult procedure necessary to change or modify the Constitution.

The enforcement laws are surely incomplete, and if we are going to have any law let us have a complete system.

To summarize:

The states and the nation should **class the consumer with the rest of the violators, and penalize him the same.**

All the jurisdictions should **penalize the acts of drinking in public and intoxication in the home** as well

as elsewhere the same as for other violations. Especially should they carry a **30 days' non-suspendable jail sentence.**

Laws should be passed **requiring the judges** and **prosecuting officers to purge the jury lists of hostile jurors.**

Laws in the nation and several states should hold the authorities to the strictest rules in the appointment of enforcement officers and allow sufficient pay for the services of good men.

Expect Only Average Efficiency

This line of legislation must be accomplished **before prohibition enforcement will reach an average efficiency.** And this is all that can be reasonably expected for several years hence.

No law, of course, was ever enforced to perfection, neither indeed can be as long as the human mind and heart are imperfect. **Yet with all its imperfections, and the tremendous influence of the immense consuming class against it, there has been marvelous improvement in all things worth while, regardless of what the enemies of the law say to the contrary.**

People with open minds, who are **old enough to contrast conditions in saloon days with the present conditions,** will admit the **improvement in the peace and order of the streets**; the **better conditions in the homes,** especially of the poor; in **labor conditions**; the **progress of all industry**; the **strength of the churches**; the **development of schools.** With all of which prohibition has had most to do.

All true men realize what a great reform has been instituted, what "a noble experiment" is in progress, and it is certain that they are now doing, and will continue to do, **everything possible to perfect the experiment, until at last there will be at least one nation free from the handicap of the ages.**

AS A PREREQUISITE TO VOTING REQUIRE OATH OF HAVING OBEYED

Thomas Taylor
Circuit Judge, Former Appellate Justice
Chicago, Illinois

TO make the 18th Amendment effective, my proposal is that the states each enact a law which shall provide that **no one may be permitted to vote for a state officer or public measure without first taking an oath that he or she has not, within, say, the preceding year, violated the 18th Amendment** to the Federal Constitution, **or the so-called Volstead Act.**

Such a law, roughly sketched, might be as follows:

> Be it enacted by the State of New York that, on and after July 1, 1929, at all elections held within this state, for the filling of any state office or the passage of any public measure, each voter or applicant to vote, shall take and subscribe publicly, in the presence of the judges and clerks of election, an oath that he or she has not violated, within the last preceding 365 days, either the 18th Amendment to the Federal Constitution or to the Volstead Act; and upon failure or refusal to do so, he or she shall not be permitted to vote at such election.

Proposal Constitutional

Under the federal and state constitutions, and the law generally, **there is no obstacle to the enactment of a law providing for such an oath by each prospective voter.** The right or privilege of voting is one arising under the constitution of each state, and not under the Constitution of the United States. McCarry, on Elections, p. 26, says,

> "So far as the right to fix qualifications of voters is concerned, the sovereignty is in the people of the respective states, by virtue of the provisions of the Federal Constitution."

He further says,

> "Suffrage in the United States not being a vested right, it results that persons who enjoy the exercise and privilege, and who have been qualified electors, may be entirely disenfranchised and deprived of the privilege by constitutional provision and that such persons are entirely without remedy at law."

The right of a state either by constitution or through the legislature to enact such a law as to require the oath here in question seems to be indubitable.

A Missouri Precedent

In **Blair** v. **Ridgely, et al., 41 Mo. 63,** the question arose as to the validity of a certain provision of the Missouri constitution. It was provided that no person shall be deemed a qualified voter who has ever been hostile to the U. S. government or the government of Missouri, that every person should at the time of voting take an oath that he was not in violation of this section, and that any person declining to take such oath should not be allowed to vote.

The plaintiff refused to take the oath prescribed by the constitution, and his vote was rejected. He brought an action against the judges of election for damages. It was contended that the provision of the constitution was in violation of the Constitution of the United States, and in consequence null and void. But the court held against that contention, and said:

> "The state may not pass laws in the form or with the effect of bills of attainder, ex post facto laws, or laws impairing the obligation of contracts; it may and has full power to pass laws, restrictive and exclusive, for the preservation or promotion

of the common interests, as political and social emergencies may from time to time require, though in certain cases disabilities may directly flow as a consequence. It should never be forgotten that the state is organized for the public weal, as well as individual purposes; and while it may not disregard and violate the safeguards that are thrown around the citizen for his protection by the Constitution, it cannot neglect to perform and do what is demanded for the public good."

18th Amendment Confers Power

In most of the states the change could be made in the law by legislative enactment, while in some states—leaving out of consideration Section 2 of the 18th Amendment—the state constitutions would have to be amended. But, the 18th Amendment, itself, provides by Section 2, as follows: "The Congress and the several states shall have concurrent power to enforce this article (18) by appropriate legislation." That means, each state legislature, notwithstanding its own constitution and what it may provide or contain, may assist by appropriate legislation, as, for example, by an enactment requiring an oath such as is here contemplated, in carrying out and enforcing the 18th Amendment; in other words, **every state legislature has the power, given to it by the 18th Amendment, to enact a law requiring every citizen, before he is permitted to vote for state officers or public measures, to take such an oath as is described above.** That is on the assumption, of course, that the requirement of the oath referred to would tend to assure the application and enforcement of the 18th Amendment.

Argumentum ad Hominem

No thoughtful, conscientious citizen considers lightly the loss of his right to vote. If the law required each voter to take such an oath, it is a reasonable inference that every citizen—knowing that if he or she violated the prohibition laws, the right to vote would be lost; and that if the oath

were falsely taken the pains and penalties of perjury would follow—would be strongly urged to withstand the temptation to drink.

What greater, more universal national influence could be so easily and simply created which would strongly tend to dissuade the people to refrain from drink, which is the essential purpose of the 18th Amendment, than such a law to warn them that they must be law-abiding citizens, and willing to say so under oath, **or be disenfranchised?**

It is the **argumentum ad hominem.** It affects the individual conscience and peace of mind of each. It is good discipline; it tends to cultivate self-restraint, self-sacrifice, renunciation, and its reward is a clearer conscience and the retention of that priceless civic status, complete American citizenship.

Such a law would establish two new things, first, a **peculiarly intimate, personal, solemn admonition, with the menace of disenfranchisement,** and, second, **some evidence as to who are and who are not violating the prohibition law.**

The effect of the first would tend to be **educative, persuasive, and deterrent;** and the second would tend to **help in the enforcement of the law.**

Shakespeare said, "Oh God, that men should put an enemy into their mouths to steal away their brains;" this law would add, "to steal away their citizenship and degrade and emasculate their consciences."

No Elaborate Machinery Needed

Considering the present seemingly impossible accomplishment of reasonably successful enforcement of prohibition, that is, making the 18th Amendment effective, with the law as it is, no new way seems quite as plausible and practicable and would probably be fraught with greater ultimate success—and **by means** that are at once **practically universal with the whole electorate, and wholly performed by the acts of the voters alone,** without elaborate bureaus, revenue departments, the assistance of the Department of

Justice and the federal and state courts, and the expense of millions—as the simple requirement of a preliminary oath by each voter at a state election for state purposes that as far as the 18th Amendment is concerned, he is a law-abiding citizen.

He who could not honorably take such an oath must admit, in reason, that he is not entitled to the official responsibility of a voter. He who denies (flouts) the Constitution should not, as a government agency, that is, as a voter, participate in that government which has its sole source in the Constitution; he denies the very authority by which he assumes to vote; ostracizes himself.

The American people may well be trusted. Give them proper enlightenment on this subject and they will accede. History shows that when they truly know and feel the right they undertake to govern themselves accordingly, and follow the law.

This proposal merely means **a government of all the people by the law-abiding; a democracy run only by those who themselves, admittedly, obey the law.**

FORM "THE CONSTITUTIONALS"

Elmer E. Thomas
Deputy Prohibition Administrator
Omaha, Nebraska

THE national election proved that there is a greater sentiment for the 18th Amendment now than there ever has been heretofore.

The same irresistible spirit which passed the 18th Amendment will assure its triumph.

All who worked for prohibition and voted this year to carry on will understand that they are the ones who must finish the work.

To make prohibition effective, all who believe that it is the great moral reform of the centuries must say to themselves, "It is up to me," and give their time and money to the completion of the task.

Prohibition has justified the claims that were made for it. Under it the country has made unbelievable progress. We know that there are many violations of the law which must be stopped. To this task the drys of America must dedicate themselves.

Plan

The law is violated because the sentiment for prohibition is unorganized. Prohibition was passed because the people organized for that purpose. **It will become effective only when those who believe in it organize to make it effective.** There are now many organizations. They are all **working from the top and have no local units and no membership.** They are not getting the results needed. If they were, this discussion would not be in order. **Each community is responsible for the violation of law in that community.**

I propose a **national organization with a membership in every county** in the United States, properly financed by

membership dues and subscriptions, with paid national and state secretaries whose purpose shall be to carry out the program outlined.

Method of Organization

I would name the organization **"The Constitutionals"** and make the term of enlistment of members four years and the unit of activity the county.

1. National Provisional Committee

I propose that Mr. W. C. Durant call a conference of leading people favorable to the 18th Amendment and that this conference appoint a National Provisional Committee whose duties shall be:

To open headquarters; to publish and broadcast a plan of organization throughout the union by the method outlined here; to request the drys in each state to meet and organize at a time and place to be fixed by the Provisional Committee, and to call a national convention of such state organizations for the purpose of forming a permanent national organization.

2. Permanent National Organization

This committee shall have general charge of the work of organization in the whole United States; shall check up on the work of each state secretary and see that the program herein outlined is made effective. The national committee shall select such officers and committees as may be found desirable. The work of the national committee shall be **supported by direct solicitation of funds.**

3. State Organization

The state organization shall consist of a state committee, a state executive committee, a state secretary and such other officers as each state may decide for itself; to have the same powers in the state as the national committee has in the nation; to be subject to the directions of the national committee; and to be **supported by contributions from county organizations.** It will be the duty of the state

organization to see that **a county organization is perfected and is actively at work in every county.**

4. County Organization

To form a county organization, churches, civic organizations and young people's societies in the churches should take up this plan at their meetings and arrange with all other interested organizations to have pledge committees organized for the circulation of the pledge herein proposed. The signers to this pledge will be the nucleus for the county organization. When the pledges have been circulated, the pledge committee should call a county conference of those who signed and of other drys to organize and elect officers. Membership dues should be **$1 per year.**

The county organization shall consist of a county committee, executive committee, finance committee, president, secretary, treasurer and such other officers and committees as each county may determine for itself. The county committee will see that **every village and city in the county** is represented and working in the county committee.

In all elections, county officers of the organization should be elected who have courage and ability and who are aggressive and of good judgment and **whose business cannot be injured because of their enforcement activities.**

Funds for the work of the county unit will be needed in excess of membership fees. These are to be solicited by the finance committee and used to obtain evidence, to **assist officials in the performance of their duties or to prosecute those public officials who refuse to act,** and to carry on other work.

Program

The object should be to obtain the largest possible membership in the county organization. The larger the organization, the more effective it will be.

The work to be done by this organization is as follows:

1. National Provisional Committee

The National Provisional Committee shall confer with the Anti-Saloon League and other dry organizations and

find out whether they will adopt the program of the Constitutionals and substantially put it into effect, thus making a new organization unnecessary.

The National Provisional Committee shall also confer with the **great manufacturers and business men** of the nation relative to financing a permanent organization and co-operating with the program herein outlined.

2. National Committee

The national committee shall, when organized, confer with the president relative to a four-year program of national enforcement, **the central idea of which should be a strong prohibition commissioner responsible directly to the president.**

The national committee shall confer with the President and congress with reference to **much larger appropriations for law enforcement work.**

The national committee shall have supervision of all national political activities of the organization with a view to securing a rigid enforcement of national prohibition.

3. State Organization

The state organization shall take up with the governor **a four-year program of law enforcement** and request **largely increased appropriations for enforcement work.** It should be understood that **large appropriations are not expensive to the taxpayers as increased fines should equal the amount appropriated.**

The state committee will be active in seeing that officials all over the state do their duty, and when the state committee receives complaints from the county committee that officials are not acting, it will take steps to bring proper pressure upon such officials and **in necessary cases to bring ouster proceedings.**

The drys are strong enough in nearly all the states to insist upon the election of a governor and of an attorney-general who **have had a record of being dry before they got into office.** They must be men of sufficient force and

courage to insist that every law-enforcement officer in the state do his duty, and they must bring ouster proceedings against those who refuse to do their duty.

The state organization should secure legislation to **make the governor directly responsible for law enforcement** and give him ample powers over all enforcement officials in the state.

4. County Organization

This will be the working body of the organization. Success will depend upon its aggressiveness. Its program should be (1) to secure **law observance,** (2) to secure **law enforcement** and (3) to secure **public officials favorable to law enforcement.**

(1) Law Observance

Pledge. The most important thing that will be done by the county organization will be to present a pledge for signature to the men, women and children of the county, as follows:

> "We, the people of the United States, do hereby pledge ourselves to support the Constitution and laws of the land; and particularly the 18th Amendment and the prohibition laws; and to observe such laws and encourage others to observe them; to help enforce them and to support public officials who do their duty in enforcing them."

This pledge should be circulated by the young people who have a desire for civic activity and by the women. Special committees of men should present the pledge to those who are supposed to be violating the law or who are out of sympathy with the law.

It furnishes a poll of the county and will give information as to who is likely to be violating the law.

Education. The county organization should secure the **teaching in the public schools** of loyalty to the Constitution and laws. The same teaching should be given by the organization **over radio, in newspapers and at public meetings.** There should be three educational public meetings a year in the interest of better government.

Creation of public sentiment. Bootleggers and their customers should be given **adverse public censure.** The smart-aleck class, old and young, should be **bluffed out by public sentiment and by prosecution.** Rich men should be made to feel the force of adverse criticism. **Few law violators have the courage to do wrong when it is known.**

In cities, progress against the rich and society leaders must be made by so strict a degree of enforcement as will shut off the supply of liquor, and by prosecution of those who flout the law in giving parties and in their private practices.

Moral suasion. Committees should be appointed for **personal appeal** to the classes which are violating the law directed **to their patriotism and to a decent respect for the opinions of their fellow men.** These committees should work among the socially prominent, among the working classes, among foreigners, and particularly among the foreign women, who are receptive, and among young people.

(2) Law Enforcement

The county organization will **volunteer its help to those city and county officials who are doing their best to enforce the law;** will obtain information and, where possible, evidence of violations which they will turn over to these officials; and will **attend court to encourage prosecution of offenders.**

It will **bring pressure to bear on officials who will not enforce the law,** by means of public sentiment, personal demands, publicity, and, where these fail, by ouster proceedings. **An aggressive committee can secure action even from hostile public officials.** The organization must insist that **constituted authority assume the burden of law enforcement and discharge it. The organization should not go into the business of prosecuting bootleggers itself.**

Public officials. The problem before the county organization is to get honest and capable officials into office. When this is done, the difficulties of enforcement pass away. In 75 of the 93 counties in Nebraska prohibition is

no problem at all, and this proportion probably holds in other dry states.

The county organization should develop its own candidates rather than make a choice from among the men who want the office. **Unless a man believed in prohibition and acted upon that belief before he was elected, he will do nothing in office except under pressure.**

Four Important Elements

1. A county organization **close to the situation to be remedied.**
2. A pledge which **puts everybody in the county on record.**
3. **An active sentiment to support willing officials and to prod unwilling ones into action.**
4. A method of **obtaining city, county and state officials who favor the enforcement of law.**

It is up to every community to enforce its own laws. **Local organizations are the only kind that I have seen do much in the way of securing better officials and law enforcement.** It is hard to impose government from Washington upon a wet community. When the officers leave, the bootleggers renew their operations. Law enforcement requires those who are interested to be constantly present and insistent upon their program.

The program herein outlined will require strenuous work. The people are willing to work for their ideals for a limited period of time. The effects of the organization will continue long after it ceases to be an active force.

At this time the job before us seems to be endless, but it isn't. With honest officials in office trying to do their duty the solution will not be difficult.

EDUCATION, NOT FORCE

Judge A. Monroe Thompson
Wisconsin Supreme Court, Milwaukee

SINCE the advent of prohibition I have presided over hundreds of cases covering every conceivable violation of the 18th Amendment. From the beginning I have studied, analyzed and worked over the mass of material at hand, seeking a cause for the evident disregard of this law. I have supplemented my personal files with data from countries in which prohibition has been tried and failed. I have interviewed the leading drys and wets alike to get an impartial view. I have scanned the daily papers and magazines and attended lectures both wet and dry.

Ten years of concentrated study have convinced me that the 18th Amendment IS practical and CAN be enforced successfully if a radical change in methods of enforcement is instituted.

Omitting pet theories, freak suggestions, etc., and getting down to rock bottom we all know we can make prohibition 100% successful if we (1) **sway public opinion** (the greatest governing force on earth) so that it will be unanimous for prohibition, or (2) **induce each drinker citizen to overcome his craving for liquor** to such an extent he will stop buying and making it.

There you have the mark prohibition enforcement must aim for to meet with success. One hundred per cent enforcement of prohibition is just as impossible as we have found 100 per cent enforcement of the narcotic laws, or other criminal laws to be.

Any plan not taking the aforementioned basic principles of successful prohibition enforcement into consideration is doomed to failure.

Before offering a remedy it is necessary to know just what condition we are to remedy.

We shall begin with this question: **Why isn't public opinion more in sympathy with a law so beneficial to mankind as the 18th Amendment?**

Prohibition, coming as it did, **brought about a change so abrupt that the population couldn't seem to drop their set habits and ways immediately.** The human mind couldn't believe that what was legal yesterday is illegal today.

Off On the Wrong Foot

With the exception of a few habitual drinkers and those who catered to them, prohibition was a condition desired by every right thinking citizen. The tremendous strides made by the principles of prohibition before enactment of the 18th Amendment prove this.

Prohibition enforcement, however, started off on the wrong foot. Instead of appealing to the honor and decency of law-abiding citizens it pointed the finger of suspicion at everybody. **A low type of enforcement officer was hired to cram this statute down the public's throat. No attempt was made to gradually educate the public to the benefits of prohibition.**

An ill-advised policy of force brought on **an era of tyranny and oppression that would do credit to a czar.** Many innocent persons were shot down, homes broken into illegally, patrons of hotels, restaurants and other public places, also auto tourists and pedestrians, were rudely held up and subjected to embarrassing searches. Neighbor was bribed to betray neighbor. Evidence was planted in many cases to secure convictions. Inviolable rights guaranteed the citizens of the United States by its constitution became mere scraps of paper.

The newspapers, considered reliable mirrors of public opinion, throughout the length and breadth of the land protested violently in editorials and front page columns against such methods.

They who welcomed prohibition resented this drastic and unjust enforcement policy and their resentment reacted against prohibition itself. **The indignities suffered through**

enforcement of prohibition outweighed the benefits prohibition offered.

Drinking Children

Many who never imbibed before prohibition drink now. Boys and girls in their 'teens drink openly and without shame. They drink, not because they like the vile stuff or have carried over an appetite for it, but because they are under a delusion that the act of drinking is a protest against the tyranny of enforcement officials.

Pick up any one of the larger dailies any time and you will find one or two articles telling of some unwarranted act by prohibition agents. As I write this I have before me a local paper carrying a picture of a woman on a hospital cot where her baby was born dead due to rough treatment by a raiding squad. No liquor was discovered in the raided place.

Public opinion has been so antagonized that its sympathies are with the opponents of prohibition instead of with prohibition where it rightfully belongs.

The present enforcement policy is a failure and will continue to be a failure so long as it runs counter to public opinion.

Before offering a remedy for this condition let us take up another phase of the enforcement question.

Will the present method of raiding and arresting the moonshiner, the rum runner and the bootlegger alone effectively dry up the U. S. A.?

Without hesitation I will state that it **will not.** Ten years intimate daily contact with every sort of violator of the Prohibition Act has proved to me that **it will not.**

For every rum dealer arrested and convicted two or three have stepped in and taken his place. **As long as there are buyers there will be sellers.**

But even if it were possible to put every moonshiner and rum runner out of business the man who wants his drink would make his own. As long as there is a cereal, vegetable or fruit sold, the man who wants his drink will be able to

ferment his own strong drinks. **Nothing short of a prohibition agent in every home would stop the flow then.**

Thus it can be easily seen how hopelessly futile the present method of enforcement is against such a condition. The rum interests have become so strong and so well organized under the present regime they are actually more powerful than the law in some of our largest cities, as recent newspaper disclosures prove.

A general summary shows us then that the present method of enforcement does not enforce and a **continuation of that policy will create added opposition and eventual repeal of the 18th Amendment.**

The Remedy

There is the condition we have to remedy and we must offer a suitable remedy or that condition won't be helped any. I submit herewith the only remedy that ten years of careful study of every angle of the prohibition question offers to my mind.

1. **Bring the personnel of the prohibition enforcement department up to the high standard of that of the postal inspector, the secret service and other federal law enforcement departments.** Turn the spotlight on the past of every man in the department and dismiss those who cannot show a record free from any ill repute in the past.

Such an announcement coming from Washington will be eagerly copied by newspapers all over the country and will be favorably discussed and commented upon in editorials and articles. It will counteract the widespread publicity and indignation aroused through indiscriminate shooting and slugging by prohibition agents within the last few months.

The citizen reading the favorable comments on such action will react favorably. **He will respect the law when he can respect the men enforcing it and the methods used in enforcement.** He will co-operate instead of obstruct, the same as he now co-operates in apprehending the dope peddler, the counterfeiter and the mail robber.

2. Announce from Washington that a radical change will be made in the enforcement policy in the future:

No more government money will be paid out to unscrupulous informers or betrayers.

The government will not tolerate indiscriminate shooting or undue roughness by any of its agents.

No attention will be paid to anonymous complaints or any complaint unless the complainant is willing to appear as witness.

No bullying tactics or third degree in forcing confessions will be permitted any prohibition agent.

The policy of upright enforcement will be adopted and the rights of citizens respected.

The sanctity of the home will not be violated.

Public drunkenness and open violation of the law will be swiftly and severely dealt with.

An educational program appealing to the better instincts will be adopted rather than a policy of force in which hired thugs are used to pound prohibition into the public.

The honor of every citizen will be appealed to and co-operation requested.

The aid of every father and mother will be asked to wipe out a condition that is destroying the souls of those dearest to them, their children.

A policy of honor in which every one will be appealed to, to aid in stamping out an evil that is making imbeciles of the nation's children.

Through proper appeal each citizen will be made to feel responsible for his share of support in wiping out this evil.

Convert Home Drinkers

It will be made plain that if a man must drink he must do it in his own home. Let a sum be appropriated to carry on a continuous propaganda appealing to the honor side of man. Each week release a bulletin of shame to all the newspapers depicting a few of the worst violations during that

week and in it give the violator's name along with the notice that he is an undesirable citizen. With printed displays show the dire results of liquor compared to beneficial prohibition. **Broadcast unceasingly the fact that the government is making a clean fight** and every citizen is honor bound to aid that government in its fight to make conditions better for ourselves and our children. Picture the horror and the awful crimes committed by moon crazed persons.

Such an announcement would sweep the country and carry with it an avalanche of favorable comment from all sources. To prove how eager the newspapers are to welcome such an announcement I am enclosing an editorial from today's paper prompted by indications (not an official announcement mind you) but just indications that the federal prohibition authorities are changing their attitude toward the hair-trigger agents who have recently indulged in indiscriminate shooting.

The results of such an announcement would be immediate. There would be a nation-wide reaction because the liberty-loving people of the United States would feel that their rights would be respected hereafter. They would lend their support where they now oppose.

We saw the effectiveness of propaganda in molding public opinion during the late war. Public opinion, the most powerful factor to be reckoned with, will, if won over, **shame the open drinker to the seclusion of his home.** It will also stop the bootlegger and moonshiner. **Man doesn't like to drink alone and he will soon tire of the bother of making and drinking his own. Then and only then will successful prohibition be in effect.**

The suggestion of **making the buyer equally guilty with the seller is impractical** and will only add fuel to the fires of rebellion now flaming. It will appear as further curtailment of personal liberty which is the battle cry of the wets today.

I am an ardent dry, knowing full well the results of drink and the benefits of prohibition. My neighbor is a radical wet who sees no harm in liquor and is outspoken against the 18th Amendment.

Persuasion, Not Browbeating

In this free country he has as much right to his opinion as I have to mine. If I were to use force and try to browbeat and compel him into accepting my views as correct and his wrong he would oppose me with all his power. I would oppose just as violently any attempt on his part to try and bully me into accepting his belief and rejecting mine.

If I can appeal to his sense of honor and respect for his country and through his love for his children convince him that drink is an evil that brings nothing but sorrow, my chances of winning him over are one hundred per cent greater.

There, between two individuals, you have the whole problem of prohibition and enforcement that is facing the nation today. The nation is composed of individuals so the same method on a larger scale stands the same chance of success.

BOND THE ENFORCEMENT AGENTS

J. P. Thompson
United States Commissioner and Deputy Clerk, United States District Court, Elizabeth City, North Carolina

Changes in the Law

AS deputy clerk and United States commissioner since March 28, 1927, I have had the opportunity to observe almost every kind of violation of the law. I have given the matter a great deal of thought. I realize that it is a problem that the brightest and best minds of the country are divided on, but it is a law made by the people of this great nation and should be enforced regardless of any one's private opinion.

I myself did not help to make this law, but as long as it is a law, as a citizen and an officer of the government I shall endeavor to do my part to make it a success. My record as an officer will back this statement.

Make the **purchaser** of illicit spirituous liquors for his or her use **equally as guilty** of the violation of the National Prohibition Act **as the seller or manufacturer** of spirituous liquors.

A defendant, upon conviction, should be required to give the name of the person from whom the purchase was made, as well as the time and place of sale, and **upon refusal to give the information should be held guilty of contempt of the court.**

Enforcement

1. Transfer from the Treasury Department **to the Department of Justice** the enforcement of the National Prohibition Act.

2. **Make the district attorneys** of the district courts of the United States for each court district the **directors of enforcement** for their respective districts.

3. **Make the United States marshal** of each court district **assistant director** in charge of federal prohibition agents or officers.

4. Place all prohibition agents or officers under **civil service regulations.** Require them to **post a bond** with good and sufficient surety in the sum of at least $5,000 for the faithful performance of their duties as set out in the law. They should also be made warrant officers, enabling them to make arrests with warrants issued by United States commissioners, on complaint of federal prohibition agents for violations of the National Prohibition Laws.

The main trouble with enforcement is the general impression that all enforcement officers have their price for protection. I do not think this is true as to all of them, but **it is my candid opinion that 75% of them have their price.** This is my reason for the suggestion that they be required to post at least a $5,000 bond executed by a good surety company. By so doing we will get a higher type of men in the service. We do not need an enforcement agent that cannot give a bond of that kind.

The civil service examination should not be too rigid as to the educational qualification, but should be **extremely rigid as to character and ability** to perform the duties and to act in a manner that will be above reproach. A man will naturally give better service when he knows that he is under bond **and that his job depends upon conduct and results.**

5. Appoint and place **at least one Secret Service agent in each court division** to work quietly and secretly on law violation and make his reports to the district attorney, and make duplicate reports to the United States marshal.

This Secret Service agent should **never be used in open court as a witness.** He should **not even be known to the regular prohibition agents,** who receive their instructions direct from the marshal, the marshal withholding from them the source of his information. By this means the secret service agent can also be in a position to know if the enforcement officers are faithfully performing their duties.

If the President Insists

This plan is based on the theory that the president will name an Attorney-General of the United States, who will put the enforcement of the law above his personal opinion whether it be for prohibition or against it, and pass the sentiment down the line to the field of enforcement agents that the law must be enforced.

Any officer from the Department of Justice in Washington to the least of the field officers, who wilfully neglects or refuses to endeavor to enforce the law by reason of his personal opinion, should be **subject to removal** upon the complaint and information based on facts satisfactory to the Attorney-General that his removal is for the good of the service.

USE VAST STATE POLICE FORCES

W. H. S. Thomson
United States District Judge
Western District, Pennsylvania

LOOKING at the Amendment itself, three basic facts distinctly appear:

1. **The sole, and definitely stated purpose of the Amendment,** is to prohibit

> ". . . the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from, the United States and all territory subject to the jurisdiction thereof, for beverage purposes."

2. **The Amendment does not define the word "intoxicating,"** that is, does not undertake to fix the alcoholic content, which, when present, makes any given liquor intoxicating.

3. **The Amendment is not self-enforcing.** Hence it requires an act of Congress to fix the alcoholic content which makes a liquor intoxicating, together with such provisions relating to exceptions, limitations, procedure and punishments, as will carry into effect the Amendment in its true spirit and purpose.

The Enforcement Act

We here reach the heart of the problem. What shall be the provisions of this act of Congress? On its wisdom or unwisdom depends the success or failure of prohibition as a national policy. In drafting this statute, the broadest conceptions of the wisest statesmen, the best brain and heart of the nation, might well be employed. Their united wisdom may still be inadequate for the full accomplishment of their purpose.

This difficult task involves the drafting of **a law, sumptuary in character, radically restricting the personal tastes and habits of a free people; restrictions regarded by many as extreme and unwise, and by thousands as an unjust encroachment on their personal rights;** a law applying to a vast nation, composed of the commingled races of many lands, differing widely in customs, manners and habits of thought; applicable alike to thousands scattered widely over vast areas, and to millions congested in great metropolitan centers; to the quiet secluded hamlet far inland, and to the great seaport, crowded with the world's traffic.

Basic Elements of a Revised Act

These widely divergent human conditions, these infinite phases of life and thought, require profound consideration in drafting a statute involving the peace and contentment of a great composite people such as ours.

Protection of constitutional guaranties: In this statute, the **homes of the people must be guarded from all unlawful intrusion, and the great constitutional guaranties,** the right of personal security, the right of personal liberty and the right of private property, **must be sacredly preserved.**

Reserved rights: In its provisions, there must be **no encroachment by indirection,** on the reserved rights of the states. These reserved rights must yield only when the necessities of the Amendment absolutely require it. To illustrate my meaning: The **foolish restrictions placed by the present law on the legitimate practice of the science of medicine,** futile in their results, foreign to the purposes of the Amendment, and peculiarly within the police powers of the state, have aroused the hostility and alienated the support of the medical profession of America.

Penalties: The punishments for violations of the Act must be in reasonable harmony with the penal code of the nation, in which the gravity of the offense is the invariable standard in fixing the penalty. These must be **sufficiently drastic to compel respect for the law, avoiding those**

extremes of severity which unfailingly bring the law into disrepute.

In every criminal statute there is, between the extremes in punishment, a point of maximum efficiency, which the drafters of the law should strive to find. **There is grave danger of forbidding too much**; of penalizing conduct which is innocent, with conduct which is evil.

Scientifically Define "Intoxicating"

Defining the word "intoxicating": There should be in the statute such a **reasonable definition of the term "intoxicating" as harmonizes with scientific conclusions and the facts of human experience.**

This standard of alcoholic content, when fixed by the Act, as long as the statute remains in force, is the limit beyond which no state can go in legislation on the subject. Within that limit, each state may fix the content of its beverages, in harmony with the will of its people. In this respect there is thus reserved to the states, in some measure, the right of local self-government.

An act so drawn, guarding, on the one hand, the rights of the people, and, on the other, upholding the Amendment in its high endeavor, would meet the approval and support of the nation. Such approval is not only highly important but absolutely vital. In the last analysis, public opinion, the great arbiter of all public questions, will render the final judgment.

Agencies for Enforcement

Second only in importance to the enforcement act itself, are the agencies chosen for its enforcement. These should invariably meet the Jeffersonian qualifications for office—"Is he honest, is he competent, is he faithful to the Constitution?"

Unfaltering integrity, an innate conception of human rights, a sense of justice that unerringly points the way—these are essentials in an enforcement officer.

Lawlessness in the execution of the law, through either

dishonesty, ignorance or recklessness, is peculiarly offensive to the people.

Federal enforcement officers should be employed only **after open competitive examinations** by the Civil Service Commission, on the ground of merit alone. This conclusion has been reached by government authorities after years of comparatively futile experiments.

In the articles presenting a topical survey of the government, Jesse Dell, civil service commissioner, on September 4th last, under the topic "The Civil Service," says:

> "Eight years of experience in the administration of the National Prohibition Act demonstrated clearly that good results in prohibition enforcement could not be expected so long as appointments were made on any basis other than merit.
>
> "The President, the Civil Service Commission, the National Civil Service Reform League, and other persons and bodies, official and unofficial, repeatedly recommended, in the interests of good government, the classification under the civil service law of the entire prohibition personnel. . . .
>
> "**Scandal had become a household word in connection with the prohibition administration.** In direct contrast was the enforcement of the Harrison Narcotic Act, the employees of which organization had been appointed through open competitive examinations held by the Civil Service Commission from the beginning. . ."

There is however, on the question of enforcement, a vital fact, almost wholly overlooked, viz: **federal agencies alone are wholly inadequate** for effective enforcement of the law.

Federal Forces Inadequate

To equip and maintain a national organization adequate for efficient enforcement, in a nation of more than one hundred millions of people, extending for 3,000 miles between the Canadian and Mexican borders, saying nothing of the naval patrol of our coasts, would require a force

of men so great as to entail on the people a burden of government perfectly staggering in its weight.

One recourse is open, and only one. The amendment gives to Congress and the several states concurrent power to enforce the article, by appropriate legislation. Such action is optional, not compulsory on the states. Within their several borders is a vast army of police, continually at work in the field, familiar with local conditions, trained in the public service, armed and equipped to uphold and preserve the public order.

Here, if properly marshaled, is the practical, efficient army for enforcement of the 18th Amendment. Compared with it, the sporadic efforts, the disorganized, and often unlawful raids, the wild forays of government agents, as heretofore practiced, are comparatively futile. **A mere random shot from the picket lines.**

A Pennsylvania Example

To illustrate: Included within the general police forces of the city of Pittsburgh there are about 1,150 men. This forced is deemed necessary to preserve order in a city of 650,000 people. While in the territory embraced within the western district of Pennsylvania, consisting of 25 counties, with a population of approximately 3,750,000 people, there are only 40 prohibition enforcement agents. There are in addition 15 inspectors, 15 in the intelligence unit and 7 on brewery control. These figures tell their own story.

Use State Forces

In this situation it follows inevitably, that all the good offices of the government, every persuasive and diplomatic means possibly available, should be employed by the government to **induce the states not only to pass appropriate legislation, but to bring their vast police forces into active, earnest co-operation** with the federal authorities to attain the common end. While this may be difficult, no other means are either available or practical.

JURIES, WEAKEST LINK

Mina C. Van Winkle
Director Woman's Bureau,
Metropolitan Police, Washington, D. C.
President, International Association of Police Women

THE 18th Amendment **can be effectively enforced.** Enforcement should be **centralized in the Department of Justice** and that department should be held responsible for enforcement.

Division of responsibility is the cause of lack of policy or poor policy. **It results in each department, Treasury and Justice, holding the other accountable for inadequate enforcement.**

Enforcement agents should be thoroughly investigated before appointment. The Civil Service Commission must have **additional appropriations** for this purpose. The whole problem of selecting, examining, etc., is expensive and can be only adequately controlled by a well trained staff and sufficient funds.

Federal, state, county and municipal employees, including army, navy and marine corps officers, judges, court officers and police who are sworn to enforce the law and defend the Constitution of the United States but **who intentionally betray this trust and their accepted obligations by drinking or dispensing illegal liquor or alcohol** in any form, or who **condone, connive at or encourage the violation of the prohibition law, should be separated from the service or held guilty of treason** as the facts warrant.

Paid anti-prohibition propaganda in the press, on the screen or the stage, whether foreign or American-made, **should be exposed and dealt with as treachery is commonly dealt with when against the peace and safety of the nation.**

Truthful Clearance Papers

Ships sailing into American ports should carry clearance papers setting forth the nature of the cargoes and should be **subject to examination at each port of entry.** If the cargoes are misrepresented, not only the ship's master but the government whose flag is carried should be held responsible.

The customer of the bootlegger should suffer heavier penalties than the bootlegger. Were there no customers—there would be no supply.

The police and the revenue agents should be charged equally with the duty of enforcing the law. **It is nothing short of treason for the police to deny responsibility therefor.** There are many important cities where the chiefs of police have publicly announced that enforcement is a federal and not a local issue.

Instead of being critics of police, Christian church members must interest themselves in the improvement of this service and in the encouragement of the individual policeman. Good law enforcement will then result and untold good will follow by providing community conditions for the protection instead of the destruction of youth.

Responsible citizenry must be developed to respect law and to acknowledge that **in obedience to law lies more patriotism than in pledging one's allegiance to one's country.**

Politics—so interwoven in our lives that we begin to realize its significance, as witness the recent election, must be made our servant. The children of the future should find in it a profession. **It must be freed from control by the brewery and liquor interests.** Woodrow Wilson said to the writer—**"The Democratic party must unload liquor interests and take on the women voters."** These women demonstrated in the election of 1928 that **a moral issue so vital as prohibition must be defended at the election polls. This was the best answer of all to Mr. Durant's question.**

Business Demands Total Abstainers

In two or three generations our people will have lost the taste for liquor. It will cease to be an adventure to secure it in defiance of law and it will be a disgrace to drink it.

Business is emphasizing the fact that **only total abstainers may hold the best positions of trust.**

In the pressroom, where formerly it was part of a writer's training to get drunk, the drunkard may not now have a job.

In the bank and shop men may not drink.

In hundreds of foundries where each man consumed quarts of beer a day, men are now drinking milk and owning automobiles, houses, radios, etc.

Men have improved socially, morally, economically and spiritually. They will continue to improve and they **will teach their children to abstain.** Their children will not know the taste of liquor.

The radio carries the kind of messages on health, morals, history, etc., that will more subtly than personal teaching reach the hearts of the young. They will know themselves and protect themselves against all temptations—as no previous generation could. Their moral strength will be more secure.

Yes, the law can be enforced with **honest men in power** and an **informed public opinion holding up the hands of our public servants.** To reiterate—the big answer came on election day, 1928.

As one of the minor officers of the law, it is clear to me that, with all the faults of the law machine, **enforcement is better than commonly believed.**

The machinery of the courts is weaker. The **jury is the weakest link.** It seems made up of men, each with the object of defeating the law. Occasionally one juryman fights for the moral issues. I would **abandon the jury system.**

Search out the **best men for judgeships and honest officials.**

Lift the whole question out of politics.

Then, even with all the frailties of human nature, prohibition would become an accepted fact when these forces control this moral issue.

CONVERT THE COLLEGES

Lofton S. Wesley
Executive Secretary, Intercollegiate Prohibition Association

THE aim of government is liberty through law. The prohibition law is one of the ways in which our government is seeking liberty for its citizens. In order that this aim may be accomplished, two things are necessary: the law must be right, and it must be supported in a positive way by a large majority of the citizens. I shall assume that the prohibition law is right. But there is a considerable group who are law-abiding citizens in most respects, **but are law-breakers with reference to the 18th Amendment.** In order to make the Amendment permanently effective, the attitude of these violators must be changed, and each future generation must know and appreciate the implications of the problem.

Taking up first the change of attitude, any method resulting in observance of the Amendment must include: first, actual governmental opposition to the liquor traffic until it is destroyed; second, an appeal to the citizens' highest sense of national loyalty and community responsibility; and third, the dissemination of facts concerning the relation of the problems of alcoholism to the individual and to society.

First, the organized liquor traffic must be crushed. Alcohol is a habit-forming drug, and its helpless victims must be protected. **Social pressure, deliberately created by this commercialized band of liquor vendors, is the direct cause of much of our law-breaking.** Crippled as the traffic is by being outlawed, it still maintains a clever system of insidious advertising. If the traffic itself is not dealt a death blow, progress in other directions is rendered more diffi-

cult. Poor enforcement and public opinion definitely interact. Federal enforcement is dealing with this lawless traffic with increasing effectiveness; the government can provide adequate machinery for directing all necessary criminal investigations.

Enforcement is the joint responsibility of both federal and state governments—a responsibility which has in many cases been shifted by the states to the federal government. **Not only is there an absence of laws in a few states, but there is a lack of co-operation on the part of state and local officials in many others.**

Enlist Citizen Loyalty

However, the more important matter is to appeal to the citizens' highest sense of national loyalty and community responsibility. If our national and state leaders will call upon the citizens to support an action of the government, they will respond. They have responded. They responded to the 18th Amendment in 1920 and 1921, when wartime patriotism was in the air.

During those years prohibition was more successful than even the most optimistic had hoped for. The benefit of this positive attitude was lost, however, because **representatives of the government cast discredit on enforcement and no longer appealed to the citizens' sense of loyalty for support.**

A Call from the President

The road to success still lies along the way of 1920. **Let the leaders summon, and the rank and file will answer.** While the government should not seek to create public sentiment for the passage of any particular law, it is clearly the duty of government officials to use every power to secure obedience to all law. Since the example and word of the nation's chief executive is the greatest single influence in the country, the exercise of this power should logically begin with the President. In this task he would no doubt

welcome the co-operation of leading citizens interested in law enforcement and observance.

The President could first of all call upon **the members of his cabinet** to publicly exert their influence in the right direction by word and by personal example. Through the proper representatives, he could also call on **national leaders in various fields,** so that, at least during the four years of his administration, the law might be given a fair chance. Newspaper owners could be asked to give active encouragement to observance of the Constitution simply as a matter of loyalty to one's government. **Although newspapers could be made one of the most effective instruments in support of obedience to the prohibition law, they are at present one of the most damaging.** Such an appeal from the President would also influence motion picture producers to see that law-breaking should not be encouraged through their productions.

Sales managers could be brought to practically do away with the custom of "tipping" by salesmen. Leaders of "society" circles would respond to the call to aid in creating an attitude of law observance, thus helping to do away with one of the greatest and most infectious sources of lawlessness—social drinking. This principle of having influential leaders appeal to the public could be extended to include national and state political leaders, labor leaders, managers of radio corporations, educational leaders, and many others.

Educate the Youth

But neither rigid enforcement nor an appeal for loyalty to the government will serve as a panacea. The ultimate effectiveness of the Amendment depends absolutely upon a real educational program, conducted on the highest scientific plan, and entirely free from overstatements and propaganda. The major part of this work must be done with children and young people. **Twenty million boys and girls reach twenty-one each decade in America; and the attitudes of oncoming generations will ultimately make of prohibi-**

tion a success or a failure. From this group, especially that section of them who graduate from college, are recruited the leaders of our political, social, and economic life. Therefore, every institution of higher learning must be included in a thorough educational program, without which other work is merely temporizing.

One hesitates to suggest the need of a new organization, but no temperance organization in the field at the present time is in position to execute this educational task. The work of this new group would supplement and make more effective the activities of regular temperance workers. It must be strictly educational in purpose and method.

The first essential would be to secure impartial scholars, chosen from the fields of psychology, physiology, sociology, economics, political science, history, and ethics, to **gather the most reliable and complete facts on alcoholism.** The results of their research should be given the widest possible circulation.

A **national library** would be maintained, equipped with everything published on the question of alcoholism; also a **supply house,** from which would go out each month tons of the best material, strategically placed.

Young men, thoroughly trained in every phase of the problems of alcoholism, would be employed, their services being made available to every institution of higher learning in the nation. Their youth and freshness from college would attract the attention of students who would not readily listen to older temperance workers. This traveling personnel would co-operate with faculty men and student leaders in the formulation of constructive educational programs.

Experts would be appointed to work with public school leaders and superintendents of public instruction. **Scientific information on physiology** would be made available for use in text books. Co-operation would be given in making effective the several state laws requiring that the physiological effects of alcohol be taught to school children.

Certain members of the staff would be available at all

times to co-operate with leaders of organizations working to improve the moral and intellectual life of the nation, especially those working among young people.

Financing an Organization

Two further practical considerations arise: the formation and the financing of the organization. **A group of about twenty national leaders representing the various interests above mentioned would be called together to decide on a method of procedure.** Co-operation would be sought from all existing temperance boards and from leaders engaged in other fields. A board of directors would be formed, consisting of perhaps from five hundred to one thousand members. Every type of leadership would be represented, with educators predominating. Members would be selected because of their wide interests, command of public respect, and some for their excellence in some special field, such as sociology. From this larger board would be selected an operating committee of fifty members, seven to nine of whom would serve as an executive committee to meet frequently and actively direct the work. The working committee would enjoy congenial working relations with the President and with the departments of the government concerned with prohibition enforcement.

This type of organization would have to be financed by voluntary contributions. Enough citizens would rally immediately to the support of the new movement to start its program, and it would grow of its own momentum. **Many people who would not be interested in giving to other types of temperance work would gladly give financial support to such a sane and scientific program.** Churches would be opened for financial appeal. The money would come in.

With such a program, including the government fight against organized liquor interests, the influence of leaders on public opinion, and a thorough educational program planned especially for young people, the 18th Amendment can be made effective.

BETTER CO-OPERATION BY AND WITH ALL LOCAL ENFORCERS

John A. Wilbur
Former Deputy Prohibition Administrator, New York

PROHIBITION administrators, their assistants, deputies, investigators and agents, and United States attorneys and their assistants, in the enforcement of the National Prohibition Act should **closely co-operate with all law enforcement agencies such as state police, county police, municipal police, district attorneys and sheriffs of counties, peace officers of towns and villages, and the officers of the United States Coast Guard and Customs Service.**

They should also **welcome the assistance of civic bodies, fraternal organizations, churches, committees of citizens and of individuals** whose earnest desire it is to encourage and promote the observance as well as the enforcement of the prohibition law.

At the present time **this is not being done to any appreciable degree,** and in many localities, especially where there is a strong wet sentiment, state, county, municipal and village officials, and the people themselves, not only do nothing for enforcement but **actually attempt to shift the entire responsibility to federal officials, and in many instances put obstacles in their way.**

On the other hand, federal prohibition officials could have been much more helpful in correcting this deplorable situation **had their attitude been less independent** and had they shown a real desire for the closest possible co-operation.

Sources of Supply

There should be a constant, **concerted and vigorous drive against the sources of supply,** such as illicit commercial

alcohol stills, illicit breweries, plants for cleaning and redistilling denatured alcohol, plants for cutting and adulterating whisky, liquor storage places, the landing of liquor and alcohol from the sea, transporting it from across the Canadian and Mexican borders, the diversion of industrial alcohol. **Also against bootlegging druggists—the worst of all violators—**and the users and producers of counterfeit strip stamps.

Speakeasies and Night Clubs

The closing of speakeasies and night clubs should for the most part be accomplished by **local law enforcement officers** in the communities where they exist. It is obviously their duty to regulate the conduct of undesirable citizens and residents who establish and manage these filthy nuisances, the same as they do gambling places and houses of ill-repute. **Such places are all public nuisances** of the same class. When there are fewer speakeasies and night clubs there will be less gambling and prostitution.

In cities these duties should be performed by municipal police and in villages by state, county, town and village law enforcement officers under the earnest direction of district attorneys and justices of the peace. **These officers know where such places are located and can obtain the evidence necessary to close them** and punish the violators **under the state penal law against** corrupting public morals and **maintaining public nuisances.**

Evidence obtained of violation of the prohibition law in such cases should be turned over to the United States attorney in whose district they occur and he will also proceed against them and **padlock them** under the provisions of that law.

In New York State there are **several hundred state, county, municipal, town and village law enforcement officers to one prohibition agent,** and it is a safe assumption that about the same ratio prevails in all of the states of the union.

In **flagrant speakeasy and night club violations,** where complaints are received or where it is apparent from the

observation of federal investigators that such places thrive as a result of the neglect or connivance of local law enforcement officers, the federal government should, through the prohibition administrator of the district in which such violations occur, make a special effort to obtain the evidence required to punish the violators and also the conspirators who afford them aid and protection.

It is much more important that federal prohibition officials, and state prohibition officials where there is a state enforcement law, should devote their entire time and efforts to the elimination of the commercial sources of supply for the reason that **speakeasies and night clubs can not exist without a commercial supply. They can not successfully operate on the home-made or family-still product.**

Strip Stamps

Under the provisions of the revised statutes of the internal revenue laws as well as the National Prohibition Act, prohibition administrators should **give much more attention to the criminal use of obsolete and counterfeit strip stamps** by the possessors of bottled bootleg whisky. **Such violators are guilty of a felony,** the penalty for which is imprisonment in a federal penitentiary.

Juries have very little patience with counterfeiters or violators who purchase and sell illicit bottled whisky on which counterfeit or obsolete strip stamps are affixed.

A better check-up on strip stamps, all of which bear dates, would also place information in the hands of federal officials which would be **valuable in detecting perjurers** who make affidavits that seized liquor was produced and purchased before the enactment of the Prohibition Act. Up to the present time federal prohibition officials have given very little attention to strip stamps.

Alcohol Diversion

A better system should be adopted for **detecting and preventing the diversion into beverage channels of specially denatured alcohol** intended only for industrial purposes.

There are thousands of SDA plants, all of which are operating under government permits, and **these permittees should not be allowed to manufacture one drop of their product except under the observation of prohibition agents,** and there should be a plan adopted for the taking of samples of the finished product.

It is probable that **under the present methods of operation more alcohol intended for industrial purposes is diverted into beverage channels by specially denatured alcohol permittees than is diverted in any other manner.**

Denaturing Plants

Denaturing plants, as such, **should be entirely discontinued** and all the denaturing of alcohol, whether completely or specially denatured, should be done in the regular government authorized distilleries. These distilleries are operated under the supervision of government officers and only a few more of such officers would be required to supervise the denaturing.

This would reduce the expense of denaturing and it would **greatly reduce the liability of diversion.**

The situation at present is such that by subterfuge many shipments of specially denatured alcohol from the numerous denaturing plants never reach the permittee manufacturers to whom they are consigned but are **diverted to bootleggers and cleaning plants for ultimate beverage use.** Denaturing plants are flagrant sources of both trouble and expense.

Finger-printing

There should be a **more effective method of identifying second and subsequent offenders** by adopting a system of finger-printing all violators who are found guilty or plead guilty of any offense against the Prohibition Law and all of those who are charged with a felony as the outcome of the violation of that law.

Under the present method of procedure **many second and subsequent offenders are not identified** owing to the fact

that they give a different name and address each time they are arrested.

Deportation of Aliens

More attention should also be paid to the deportation of alien violators whose deportation is warranted under the Prohibition Law. An effective finger printing system would also aid greatly in detecting second and subsequent alien offenders who should under the law be deported. A large percentage of prohibition violators are aliens.

Druggists

A better method of **detecting and apprehending drug-store violators** should be adopted, as these are **the worst of all offenders.**

Where complaints are received by prohibition administrators, and the enforcement agents assigned to the cases fail to make a purchase, which is usually the case owing to the keener perception of druggists as compared with ordinary prohibition offenders, they should then and there examine their records and stock.

The present method of making such examinations only by agents of the permit division, usually at stated times, is not an effective check on bootlegging druggists. They have too much time to fix things up for the occasion.

The reason why druggists are the worst of all offenders is that under the protection of a permit they are really the representatives of the federal government in supplying for medicinal purposes, on the prescriptions of reputable physicians, pure liquor as a stimulant for patients who are ill.

It happens today that **a majority of the so-called druggists who hold government permits are bootleggers.** They cut their legally provided liquor ofttimes with re-distilled denatured alcohol and **not only supply this poisonous product for the sick but also serve it for beverage purposes without prescriptions. Such violators might well be classed with murderers.**

Conspiracy—Poison Liquor

More strong conspiracy cases should be made and can be made if evidence is carefully obtained which will stand up before grand juries and in court. **Grand juries will indict and courts will convict conspirators who manufacture, transport or sell poisonous liquor** made from re-distilled denatured alcohol. And by the analysis of samples by government chemists it is easy to determine that over 90% of it now vended is this kind of product.

Agents should be more familiar with regulations, with the provisions of the National Prohibition Act and with the provisions of the revised statutes of the internal revenue laws which relate thereto. The United States **civil service requirements in the examination of applicants** should materially aid in bringing about this much desired result.

Honest and Competent Officials

Provision should be made for the payment of **higher salaries to prohibition executives, investigators and agents.** No investigator or agent should receive less than $2,400 a year. The minimum now is $1,860 a year. And with all the responsibility that rests on an administrator his salary should be not less than $7,500 a year. The minimum now is $4,000 a year.

The success of any plan of effective law enforcement is predicated to a large extent on the employment of honest and competent officials, and as a prerequisite to such a requirement they should be paid salaries commensurate with duties to be performed.

Department of Justice

The prohibition unit should be taken from the Treasury Department and **placed in the Department of Justice.** The little money that is now collected on tax-paid liquors and alcohol does not warrant that it continue under the Treasury Department. The great importance of effectively enforcing the National Prohibition Act now demands that it be completely under the supervision of the Department of Justice.

Loyalty

Prohibition executives, their assistants and the field force **should not publicly discuss the merits of the 18th Amendment or the National Prohibition Act.** It is their duty to enforce the law and they should confine their efforts to that very important duty.

Summary

"The best and most practicable plan to make the 18th Amendment effective" is almost entirely summed up in two propositions as follows:

1. The federal government through its prohibition executives and field force, with the voluntary assistance of all law-abiding citizens, should **encourage and promote the best possible co-operation among all law enforcement agencies.**

2. **Federal prohibition officials** should **confine their enforcement efforts almost entirely to sources of supply.**

MAKE BOOTLEGGING UNPROFITABLE

Judge Frank C. Williams
County Municipal Court, Newport, Vermont

1. **Congress should strengthen the Volstead Act** to provide for **substantial jail sentences,** with **probation for first offenders.**

2. Congress should **enact laws requiring the greatest cooperation possible between all federal officers** who have to do with the enforcement of the prohibition laws, **and state officers, and should require all customs officers and immigration officers to perform duties of prohibition enforcement officers** and give them the same powers.

3. Congress should provide for **enough enforcement officers to effectively cover all of the borders of the country and all the large cities** in the country.

4. Congress should provide for **enough courts to handle all cases** arising under the prohibition laws promptly.

5. Congress should provide for the enforcement of the prohibition laws on the waters under the control of the United States, both inland and ocean, by the use of **sufficient vessels** to efficiently patrol such waters.

6. **All the states should be urged to enact such laws as are necessary** to enforce effectively the provisions of the 18th Amendment and to co-operate fully with the federal enforcement officers.

7. If any state refuses to enact such laws, the federal government should send into such state sufficient enforcement officers, and **provide sufficient courts to enforce the federal laws as will be likely to give the citizens of such state the same protection** as will be given in states which are in sympathy with the enforcement of the 18th Amendment.

No More "Politics"

8. In the appointment of officers to enforce the prohibition laws, **political influence should not be recognized**; all appointments should be made only after a thorough examination of the applicant by a commission provided for that purpose, and conditions of appointment should be that the commission is satisfied by **the past record of applicants** that they are capable of performing the duties of the office; that they are efficient and active, honest, and loyal to the oath they should be required to take to perform the duties required of them by their appointment; and power should be lodged in the appointing power of the government and the states to remove all enforcement officers for cause.

9. The enforcement of the prohibitory laws should proceed in **a business way, without prejudice, sympathy or yielding to any influence whatsoever.** The plan outlined above will require a very large number of officers, federal and state, and the expenditure of a large amount of money. The strongest inducement for bringing into the country and distributing in the states, intoxicating liquor, is the profits of the trade. **Make the business unprofitable and the greatest inducement for "bootlegging" will be destroyed. The cost of enforcing the law therefore should be collected from those conducting the business** so far as possible.

10. The officers to whom is given the active duty of enforcement should be directed and supervised in every federal district and every state by **such executive heads as any up-to-date business corporation which is successful would require to direct its work.**

11. The 18th Amendment **cannot be successfully enforced by spasmodic or indifferent work.** I think it can be enforced by the plan outlined herein so as to fairly satisfy all law-abiding citizens who desire the enforcement of all laws, and **cause all those who wish to break the law to fear for their liberty, if they do break this law.**

START ALL OVER WITH ENFORCERS

O. D. Williams
Sheriff, Warrenton, North Carolina

AS sheriff of a little county in North Carolina, and a man who has been for a long period closely associated with the present liquor law, I shall set out below, not with the idea of receiving Mr. Durant's prize, but the best plan as I see it to make the 18th Amendment effective and the law upon our statutes respected.

My remedy, and a short one, to make the United States bone dry, now and for always, is first, **have those in authority ask for the resignation of all prohibition officers and start over anew,** employing honest, sober, and upright men, **the kind of men the bootleggers' purse can't attract.**

Learn in advance that they are men of this type by a **diligent inquiry into their moral standing in the city, town or community from which they come.**

Still further, the good people of the United States, and every part of it, must give their time and influence to **see that the same class of men are elected or appointed to fill the various offices throughout the entire country** from county constable up to President. Can we expect much good to come from the 18th Amendment so long as we have men in office and judges on the bench who are supposed to lead us in the law-abiding paths **but instead are lending a helping hand to bootleggers?** I say NO.

Citizens Echo Officers' Disrespect

The liquor law under the present enforcement is treated with utter contempt, largely due, I believe, to the disrespect shown this great law by those in authority to enforce it.

There must first be placed in authority to enforce this great law the class of men I referred to above. And last but

not least, **every individual** throughout the United States, **regardless of party affiliation who favors the 18th Amendment must co-operate with the officers in charge of the liquor law.**

They must realize that **without co-operation the officers are powerless,** and I think I know whereof I speak.

So, my countrymen, awake and put your **all** behind the officers, and then be assured the 18th Amendment will be a mighty power in our Constitution and the United States soon a bone dry country.

REACH PROPERTY OWNERS

A. P. Wilson
Prosecuting Attorney
Oaksville, Grays Harbor County, Washington

MUCH waste is known to flow from intoxicating liquor when used as a beverage. The 18th Amendment to the Constitution of the United States prohibits the manufacture, sale or transportation of intoxicating liquor for beverage purposes.

Up to this time **the law has spent nearly all its force prosecuting those who directly engage in the forbidden acts.** However, the illicit traffic in liquor cannot exist without the use of tangible property, both real and personal. Back of this property is a property owner. Every bootlegger is known locally. **If he cannot buy from the property owner and use his land and buildings he cannot function.**

Men and women have come to believe that intoxicating liquor as a beverage takes food, clothing and shelter away from families, weakens character and is a fellow of crime. **While the property owner takes no part in carrying on the trade he gathers to himself rents and profits from those that do.**

An attempt is being made to outlaw intoxicating liquor when used as a beverage **The great majority being agreed, they have the inalienable right to do so.** We now suffer intoxicating liquor to come into existence and then try to suppress it. **The more effective plan would be to so control property and the uses that may be made of it that intoxicating liquor cannot be manufactured or dealt in,** and there will then be no liquor to suppress.

When laws are so made that they will **affect property and its owner, and when the wrongful use of it brings**

losses to the one holding its title, the whole matter of law enforcement will change.

Bootleggers Have to Use Property

Whenever the property owner denies the bootlegger the latter cannot exist. The merchant carries **supplies intended for the liquor traffic** and sells them, well knowing the use to which they will be put. The **landlord** rents his building to one he well knows will use it as a place to supply liquor or suffers him to continue therein after he has knowledge. The Volstead Act, in addition to prosecuting the bootlegger, **should reach past him and take hold on the property owner and his property and inflict penalties upon both.**

Our plan is to exercise such control over property, in behalf of public interest and welfare, that **the property owner, in order to protect himself and to receive benefits from his property, will turn against the bootlegger and refuse to furnish him supplies, transportation or housing.**

28 Proposals Affecting Property

Therefore, "the best and most practicable plan to make the 18th Amendment effective" is for Congress and the several state legislatures to enact laws that will:

1—Declare intoxicating liquor for beverage purposes wasteful, harmful and dangerous to the health and morals of the inhabitants of the United States, and all territory under its jurisdiction, and against public policy for it to exist in any form.

2—**Make it unlawful for property of any kind, either real or personal,** to be used or suffered to be used for the purpose of manufacturing, transporting, storing, serving, or selling intoxicating liquor to be used as a beverage.

3—Make it unlawful to manufacture or transport intoxicating liquor for beverage purposes.

4—Make it unlawful to serve, sell, **possess, buy, give away** or otherwise dispose of intoxicating liquor for beverage purposes.

5—Make it **unlawful to use any means or method of conveyance** for the purpose of transporting intoxicating liquor to be used as a beverage. **Declare any means or method of conveyance, when so used, a public nuisance, which shall be confiscated.**

6—Declare all lands, buildings or premises in any way used for the storing, serving, selling or manufacturing of intoxicating liquor for beverage purposes **a public nuisance, which must be closed for one year.**

Every Owner a Prohibition Agent

7—**Make all property owners special prohibition agents, charged with the duty of keeping their own property free of, and from being used for the purpose of storing, serving, selling, transporting or manufacturing intoxicating liquor to be used as a beverage.**

8—It shall be presumed, taken and held that all intoxicating liquor had, possessed, served, sold, transported or manufactured is **for beverage purposes. The burden shall be upon the defendant** to show the contrary.

9—For the purpose of this law all citizens or residents of the United States shall be divided into two classes: A—owners of property; and B—users or occupants of property. Owners of property shall be all persons who have an estate for life or fee simple therein, or are the owners of personal property. All other persons shall be classified as users or occupants of property.

10—No person shall be allowed or permitted to buy, own or acquire any manner or form of property to be used in the manufacture, sale or transportation of intoxicating liquor for beverage purposes. **The title to all property obtained to be so used shall be and remain in the person from whom it is taken or acquired.**

11—**Require all dealers** in goods, wares or merchandise, **who carry supplies such as are used in or for the manufacture of intoxicating liquor, to exercise a high degree of care in order that they may know their goods are not passing into the hands of unlawful manufacturers of intoxicat-**

ing liquor and for the purpose of preventing such persons from acquiring them.

12—Make it unlawful for any person to store, serve, sell or manufacture intoxicating liquor for beverage purposes in or **upon any land, building or premises of another or any public property.** No person shall be deemed to be the owner of any land, building or premises unless he have a a life estate or fee simple therein.

Prevent Evasion of Owner's Liability

13—No bailee or conditional buyer of personal property shall have such an interest therein **as will relieve the owner thereof from liability for suffering his property to be used in violation of the prohibitory law.**

14—**Make void and unenforceable** all obligations entered into for the purpose of acquiring, serving, selling, transporting or manufacturing intoxicating liquor for beverage purposes or to effect or accomplish such purpose.

15—Give the wife, husband, child or other dependent of any person, and the father, mother or other custodian of any minor **a right of action against any one who takes or receives any money or thing of value for intoxicating liquor to be used as a beverage or for any means for transporting or manufacturing** the same for a place to deal therein, from any such minor or from any person upon whom any wife, husband, child or other dependent relies or depends for support, **in three times the amount thus paid and received.**

Make Owners and Furnishers Co-defendants

16—In every prosecution for a violation of the prohibitory law which involves or requires the furnishing of any material or supplies or the use of any property, either real or personal, **always make the owner of the property so used and the person furnishing the supplies or materials used, parties defendant, to be so joined as aiders and abettors of the principal defendant,** subject to the same penalty for suffering their property, supplies and materials to have been used in violation of the law.

Double Penalties for Partners

17—**Discourage partnerships in illicit liquor traffic by providing** that wherever two or more persons are associated together, either as principals or as principals and agents, in any storing, serving, selling, transporting or manufacturing of intoxicating liquor for beverage purposes, **each and all such persons shall suffer double penalty.**

18—Make it **unlawful for any man to associate with himself,** by employment or otherwise, **any woman,** including his wife, in having, serving, selling, transporting or manufacturing intoxicating liquor to be used as a beverage. **Nor shall any man assist or enter the employment of any woman so engaged, including his wife.**

19—Deny public officers and employees of every kind the right to use intoxicating liquor for beverage purposes **under penalty of forfeiture of office and dismissal from public employment in addition to other penalties.**

Property Used for Transportation

20—Quick transportation being of great service to the unlawful dealer in intoxicating liquor, law enforcement would be benefited if **every person convicted** of having, serving, selling, transporting or manufacturing intoxicating liquor for beverage purposes **should have his motor vehicle operator's license canceled for one year; during which time he shall be forbidden the right to operate a motor vehicle by agent or otherwise, or to keep one in his service by hire.**

21—**Declare all motor vehicles, when operated by drivers under the influence of intoxicating liquor, instruments of destruction, dangerous to life and property and a public nuisance, to be confiscated upon the conviction of the operator and his operator's license canceled.**

22—**Make any and all persons who ride in a motor vehicle which is being operated by a driver under the influence of intoxicating liquor, subject to the same penalty as the person operating such motor vehicle.** In addition thereto, make every such person **guilty of gross negligence and**

equally liable with such operator for any damage suffered or inflicted upon the property or person of another.

License Sale of Stills

23—Stills should be manufactured and sold only by order of court. All stills to have the name, address and license number of the maker stamped in the body therof. All stills to be registered with the county clerk in the name of the owner. No still to be sold or transferred without the written consent of the sheriff.

Deport Convicted Aliens

24—Many persons of foreign birth are disposed to disregard the prohibitory law and engage in the illicit liquor traffic. As a check against this, **all persons of foreign birth, at the time they are admitted into this country should be required to subscribe to an oath to the effect that they will not thereafter engage in selling, transporting or manufacturing intoxicating liquor for beverage purposes.** When any person of foreign birth is **convicted** of selling, transporting or manufacturing intoxicating liquor for beverage purposes, in addition to other penalties, **require that he be deported.**

Widen Powers of Search

25—For the purpose of giving notice of apparent violations of the prohibitory law, and in order **to make property owners more secure and to prevent law violations,** in addition to the search and seizure law now in force, **enact a law whereby the prosecuting attorney or sheriff of any county may make a showing by affidavit** that he has reason to believe that intoxicating liquor for beverage purpose is being stored, served, sold, or manufactured in or on any land, building or premises, or is being transported by any person or in any vehicle, before any justice of the peace having jurisdiction thereof; **whereupon, such justice shall, if he finds the showing sufficient, issue a summons to the person therein named,** including the users or occupants of the property or vehicle therein described and the owner of

such property or vehicle, commanding them to appear on a certain day for the purpose of being advised of the things set out in such affidavits and of the law and liability thereof and permit them to make such answer as they see fit. The said justice to have jurisdiction to make suitable orders therein.

26—All such property owners, if convicted, to be penalized by a cash fine and costs and **in addition their property shall be confiscated or closed.**

27—All users or occupants of such property to be fined a given number of days and costs (costs payable in cash) to be worked out in the sheriff's army.

Hard Labor for Convicted Non-owners

28—The liquor law violator invariably tries to escape by the payment of a cash fine with no days to serve. County jails have no adequate way to employ prisoners. To overcome this and make punishment more undesirable to the offender, a **sheriff's army should be provided, in which liquor law violators, other than property owners, will be automatically drafted upon conviction and to which they shall be sentenced to work out their penalty.** Their time to be credited upon actual units of labor performed. **Recruits to be assigned to any kind of public work or such work as the sheriff may provide for employment.**

"IF I WERE EMPOWERED"

Dr. Clarence True Wilson
General Secretary, Board of Temperance, Prohibition and Public Morals, Methodist Episcopal Church
Washington, D. C.

1. **If I were President** I would see that the Constitution of the United States did not become a joke during my administration. The White House would not serve intoxicating liquors or patronize bootleggers or set an example of drinking in homes while the government was committed to the opposite policy.

My Cabinet would not contain men who openly flouted the federal constitutional provisions or the federal government.

Judges of my appointment would not brazenly, from the bench, denounce the laws of the land which they had taken an oath to enforce **without accounting to me** and to the government in the impeachment proceedings provided for by law or through a peremptory demand for their resignation.

I would appoint as the chief enforcement officers men of executive ability, **standing for character and achievement, and who, in addition, believed in this law** that they were expected to spend a lifetime in enforcing, so that in all their work they would be able to work with their conscience and not be asked to work against their own conscience. Other things being equal, men will do better by the task in which they believe; therefore, no wets need apply.

My message to Congress would hold up the high ideals of citizenship and loyalty and not let down to popular lawlessness in an experimental stage of our "greatest moral experiment" through "that salutary law."

As the leader of my party as well as the executive of my

government, I would make my influence tell for our form of government by showing that when 46 out of 48 States ratify a Constitutional amendment, **decent and law-abiding citizens would be expected to observe it** and the **criminally disposed would find it enforced upon them by the strong arm of the government.**

What Congressmen Might Do

2. **If I were Senator or state represenative in Congress** and took an oath to enforce, protect, and defend the federal Constitution and the acts of Congress: I would vote for an **adequate appropriation for the enforcement of the law that is most under fire,** and until it was changed I would see that it was respected at any possible cost.

The budget for prohibition enforcement would, therefore, have my attention and all needed acts of supplementary legislation to adapt the Volstead Act to the growing exigencies of experience.

A law should fit the growing sentiment of the people as the bark on the tree grows with and expands with the swelling trunk. I should, therefore, make no apologies for supplementing a law of Congress, but **make a felony of the five outstanding offenses against the 18th Amendment** which are named in the Amendment itself—the manufacture, sale, importation, exportation, or transportation of intoxicating liquors. To do any of these five things is not only to violate the Volstead Act of Congress but to trample on the Constitution itself, and Congress should enact laws and compel the honoring and the general observance of our constitutional amendments.

What Federal Officers Might Do

3. **If I were an officer of the federal government in executive position or in a judicial relation:** I would feel that an attack on the Volstead Act was an attack on me as an officer of the government and interpret **the flaunting of lawlessness as rebellion against our form of government,** and I should not do what Roosevelt called "hitting soft," but

would show the lawless element what the strenuous life pledged by law-abiding citizens means.

What Uniformed Men Might Do

4. **If I were an officer of the United States Army or Navy,** wearing the uniform of our government: I should remember what Abraham Lincoln said during the Civil War when he saw a soldier wearing his blue uniform into one of the notorious saloons of Washington. The great President walked forward, put his hand on the shoulder of the young man, and said, "My boy, I hate to see you carrying that uniform into a place like that."

And as an officer of our army or navy I would hate to see our men wear the uniform of the United States, paid for by the government and loaned to them for personal use while they represent it, carried so that they openly proclaimed that while wearing the uniform they were trampling on the principles of free government and obliterating the influence of the laws which the oath of every soldier and sailor requires him to uphold and protect.

Tests for Governors

5. **If I were governor:** I should hold my state to be foremost in the co-operation which it gave to the national government in its great moral experiment of showing the nations that you can run a government like ours without tainted money, and conduct a civilization without turning boys into drunkards and girls into drunkards' wives.

I would make a conscience of appointing the best equipped men to enforce a law of my state and see to it that they co-operated with federal officers in a joint effort of the United States in suppressing an iniquity like the liquor traffic.

Tests for Police Chiefs

6. **If I were chief of police:** I would remember what the old saloon days meant, when every corner was an or-

ganized temptation for youth and a sluiceway for drunkenness, when the red-light district and the gambling hells held high carnival and the saloon gang ran the politics of the city, removed decent judges from their places for fining gamblers or suppressing dens of vice, and when decency could hardly get a breathing spell in any one of our big American cities, where the notoriously bad government smelled from ocean to ocean and it was commonly said 15 years ago that our civilization was breaking down through the graft of our city life.

And now, as the chief of police of my town, I have the responsibility of making a success of prohibition, which simply means the final evolution of a hundred years of education as to the evils of intemperance and the final culmination in a supreme effort to suppress rum selling, liquor manufacturing and organized political corruption. Whatever others may do, my citizens shall go straight.

Tests for Sheriffs

7. **If I were sheriff:** The people of my county have chosen me from all their citizens to take responsibility for managing their finances, preserving order, enforcing law, and maintaining the standards of good citizenship in rural as well as city life. I can let down and the whole moral tone will lower, or I can hold high standards to law-abiding citizens and we shall have a decent county to live in and raise our children in. I have a close touch with the city government on the one hand and the federal government on the other and with the jails, police courts, circuit courts, and the federal officers as well.

They have a right to expect certain things of me, and while I am sheriff they shall not be disappointed. Prohibition has not had any easy sledding with politicians, but it is no longer a question as to whether I believe in it as a policy; the law-making power has settled that, and constitutional government goes up or down in this county with the success or failure of law observance and enforcement. I, there-

fore, shall, without asking questions as to who enacted it and why, personally do my duty in the enforcement of a law as it stands.

If it is properly enforced we shall see whether it ought to stand or not; if it is not enforced no honest man in America can say it has been given a fair trial yet; and, of course, it must not be changed until it has had a fair trial.

Tests for Policemen

8. **If I were constable of my county, or policeman of my city:** I should expect people to remove me unless I respected the law of the land which I have taken an oath and also a salary to defend, protect and enforce. When I walk my beat I want it distinctly understood that I am there as the embodiment of the principles of law enforcement, for the benefit of all the people who support me, and that I am **not in partnership with the bootleggers** and none of their blood money has ever clung to my hand or found its way into my pocket.

For Captains of Industry

9. **If I were a captain of industry:** I would feel that present day industrial leadership of both capital and labor holds the most potential force for effective realization of prohibition efficiency. **See how comparatively few have been the strikes since the decade of prohibition, and what an orderly, law-abiding and sober affair the strikes have been.**

In the old days they filled up with booze in the wide open saloon, plotted mischief with intoxicated men and went out to make nights hideous with drunken crimes.

Then how well I remember when we were thought to have no labor troubles, **how thin the ranks were Monday morning, Tuesday work still crippled as workmen struggled back late in the week from sleeping off their week-end debauch.** Our profits have increased as our workmen have grown sober.

For Education's Leaders

10. **If I were an influential leader in modern education:** The social heredity one generation passes on to the next by what we call education has seriously fallen down in the advocacy of respect for the ideals, laws and institutions of society. Most of our educational standards are lowered to suit a jazz age of lawless music, loose thinking, bravado acting and unconcerned relationship to the state. The function of education should be to make students good citizens who observe the law and help to improve society.

For Editors

11. **If I were the editor or manager of a great newspaper:** I would give the news, I would picture the situation. But I would hold myself responsible for making my paper a leader to better things. **National publicity movements are quite as responsible for the popular attitude of citizens** as any political organization. "As a man thinketh so is he," and he thinks what he reads.

For Religious Leaders

12. **If I were a leader in the religious world:** I should want our highest morality to register for human betterment. A religion that does not make men better is not good for men. Religion and morality are one. Religion is morality toward God. Morality is religion toward men.

To imagine that religion has nothing to do with political questions is to restrict it from operating in its own field and make it an impractical idealism with no earthly mission.

A religious organization with no rebuke or remedy for such a crushing evil as the liquor traffic or now the lawless bootleg trade, should have no place in a world like this.

Tests for Citizens

13. **If I were a law-abiding American citizen,** enjoying the protection of the army and navy that keep foreign enemies from molesting us, of the police force that keeps the evilly disposed from trespassing, of good enactments which

protect my life and property and reputation from the burglar, midnight assassin, the villainous libeler and even the speed fiend: I would consider myself an ingrate to enjoy all these immunities from danger at the hands of a republic if I trampled under my feet the rights of that republic in enforcing its own best laws. In the upward trend of civilization by which evil has gone down and righteousness has gone up, there has been no enactment in the 1900 years of Christian civilization that has **meant more for the protection of women, the safety of children, the building of homes, the establishment of character, the prevailment of sobriety than the best law of them all—the prohibition of the liquor traffic.**

NEW POWER IN OLD LAW By PRESIDENTIAL INSISTENCE

William Burnet Wright, Jr.
Formerly Governor Pinchot's Special Counsel on Law Enforcement

ANY effective plan for carrying out the 18th Amendment should:

1. Secure the **sympathetic and understanding co-operation and support of the rank and file of law-abiding citizens,** inspire confidence in the government's enforcement methods, and **create a new respect for law in those who consistently observe every fundamental law of the land except the 18th Amendment.**
2. Change the government's plan for enforcing the Amendment and **stop the illegal liquor traffic at its source.**

The prohibited liquor traffic is **no more supplied by home brew than the New York City water system is supplied by local springs.** Wipe out the great sources of supply of liquor traffic, and it cannot continue. The lawless element carrying on the traffic knows this.

Enforcement Difficulties Exaggerated

Difficulties of enforcing the Amendment have been greatly exaggerated in the minds of the vast body of law-abiding citizens. Their confidence in the government's efforts to end illegal traffic in liquor must be restored.

The following plan is contingent upon no changes in laws for carrying out the Amendment. It calls for no increased appropriations, or additional federal courts or judges.

The President shall take active leadership to make the 18th Amendment effective, just as Washington took leadership in breaking the Whisky Rebellion. **By proclamation,** immediately after his inauguration, **Mr. Hoover shall call upon all private citizens and public officials throughout the nation to co-operate with him in stopping the prohibited liquor traffic by personally observing the 18th Amendment** and state that **he will see the law is enforced without fear or favor** against those responsible for that traffic and its resulting lawlessless without molesting law-abiding citizens and **will keep the enforcement service free from politics and corruption.**

The President shall enlist the personal co-operation of **governors** of states, and **leaders,** both men and women, in national industrial, business, labor, religious, temperance, law enforcement, civic and philanthropic organizations to secure observance of the Amendment by their friends and business associates, and in their various communities the help of local public officials to make the Amendment effective, and organize citizens' committees to back them up.

The President shall select a lawyer with experience in active practice and successful law enforcement work as **personal counsel,** to constantly advise him regarding and keep him in touch with the government's 18th Amendment work, and represent him in securing co-operation of citizens and public officials throughout the country to bring about its success.

Interdepartmental Co-operation

The work of enforcing the 18th Amendment devolves upon the Treasury and Justice Departments. Therefore the Secretary of the Treasury and the Attorney-General, immediately after the President's proclamation, shall **jointly announce that their departments will concentrate enforcement work upon big violators and violations at sources of manufacture, sale and distribution** for the prohibited traffic; will **work in closest co-operation to close by injunction** (the effective method for thirty years to end liquor viola-

tions) **from any use for a year,** places violating the law, to **convict law-breakers** for those crimes which carry the longest prison sentences, **never only a fine if possible,** and to **collect their evaded taxes.**

They will, by court actions, in the shortest possible time, **lock tight those violating places for a year,** start the law-breakers serving their sentences, and collect their evaded taxes.

They will maintain tight secrecy regarding their work; and will, as the law commands, **always construe the National Prohibition Act liberally, never narrowly.**

This procedure will strike terror in the law-breakers.

The Secretary of the Treasury, through the Commissioner of Prohibition, shall see that these policies are executed and the Attorney-General shall appoint an assistant with the sole duty of seeing that the Department of Justice and the United States district attorneys throughout the country carry out the policies, and that **any one failing to do so is removed.**

The Secretary of the Treasury shall request all persons permitted to do business in alcohol, to aid the government in preventing alcohol being secured for illegal purposes; shall advise permit holders that they must conform to the law, and that any found not in good faith doing so, or violating any state law regarding intoxicating liquor, will lose their permits, as the Act provides; shall **remove from the Bureau of Prohibition every employee with a bad record** and make all other employees understand their positions and promotion depend upon meritorious work, **political influence counting for nothing,** and that any employee uncovering a violator, **no matter how politically powerful,** will be fully supported.

Remove Red Tape

The law gives the Secretary of the Treasury unusual powers to adopt regulations for meeting almost any emergency or problem arising in administering or enforcing it.

He shall exercise that power to remove red tape and unnecessary obstacles for transacting legitimate business in alcohol, but make it impossible for law-breakers to secure government permission to do business and also make impossible the diverting or releasing for any illegal purpose, without discovery, any alcohol or product containing it, at any source of its manufacture, storage or use, or anywhere between such sources and points for its final retail use. The Secretary shall consult with long-established, honest producers and users of alcohol in drafting these regulations, that **honest business may be helped, dishonest business wiped out,** every possible loophole closed for violating the law, and the intent of every provision of the Act carried out.

The Secretary of the Treasury shall organize the Bureau of Prohibition as follows:

Appoint a Commissioner of Prohibition, preferably a lawyer with experience in active practice and successful law enforcement work, who shall be directly responsible to him, and in complete charge of the Bureau.

Under the Commissioner shall be an **intelligence division and a record division,** each with a chief.

The **intelligence division** shall discover and report to the Commissioner all large, powerful sources of supply for the illegal liquor traffic, the big violators in it, and their methods. As soon as reported, the Commissioner shall assign these sources to the enforcement section to secure evidence to wipe them out by civil and criminal actions.

The **record division,** corresponding to a **statistical or research department of any great business,** shall constantly follow the work of the bureau, to keep the Commissioner advised as to **how it is functioning** throughout the country, how legitimate business in alcohol is being conducted and illegal traffic revealed, giving him monthly summaries showing the status and changes in work, so that he can make removals or transfers in personnel, or changes in methods of work to secure maximum results.

National Official Publicity

This record research division shall keep copies of records and reports pertaining to the Bureau's work throughout the country and business permitted by it; install and keep up to date a uniform system for these records and reports, analyzing them, and wherever possible, all records and reports relating to major violations and hearings or trials connected with them since the Amendment went into effect, so that an up-to-date record will be on hand always for instant reference, to prevent known or suspected law-breakers from securing permits to do business. This division shall also give **nation-wide publicity to the government's 18th Amendment work,** its progress in stopping the illegal liquor traffic, and the economic, social and physical benefits therefrom.

As running a bank is a distinct business from catching men who rob it, so administering the law for legitimate business is entirely distinct from enforcing it to stop outlawed business. Therefore, the Bureau of Prohibition shall be divided into two sections, each in charge of a deputy commissioner of prohibition: one the **administration section** to do all work connected with granting permission to do business under the National Prohibition Act; the other, the **enforcement section,** to secure evidence to stop the outlawed liquor traffic by closing, through injunction, places violating the law, by convicting violators for their crimes carrying the longest prison sentence, and collecting their evaded taxes.

The work of these sections is both nation-wide and purely local. Therefore the country shall be divided into local districts for each section. These districts shall not be alike, but larger or smaller, with their boundaries and headquarters located **as required for the best results locally.**

A district commissioner shall be placed in charge of each local district, directly responsible to the deputy commissioner heading his section.

Each section's system of organization and methods of

work shall be followed in all its districts, as **necessary to meet local conditions.**

Guard Permits

The **administration section,** as the first line of defense against the prohibited liquor traffic, shall prevent persons who will violate the law or acquiesce in others violating it, from securing government permission to use or do business in alcohol, or any product of alcohol, and if such persons have permission this section shall revoke their permits.

Its work shall be divided into four divisions—investigation, permit, chemical and storekeeper, each with a chief.

The **investigation division** shall ascertain whether persons are entitled to permits and inspect business done under them.

The **permit division** shall issue permits, and revoke them if violated, handling in Washington those for manufacturing any alcohol or other product containing, during or after manufacture, half of one per cent or more of alcohol by volume for denaturing alcohol, and for using it in manufacturing, or dealing with it in any other way, in wholesale quantities, as they shall be defined in the regulations; all other permits shall be handled in local districts where those securing them or places covered by them are located.

The **chemical division** shall determine formulas for using alcohol in liquids, and test them for conformity to law.

The **storekeeper division** shall take complete charge of operations in alcohol manufacturing and denaturing plants and warehouses, so that through the absolute control over these places, which the law gave the government long before the 18th Amendment, violations at these sources will cease.

The **enforcement section** shall secure evidence to stop through civil and criminal actions violations at all sources of manufacture, sale, distribution and smuggling, for supplying the illegal liquor traffic. For this work the section

shall be separated into three divisions—internal, customs and coast guard, each with a chief.

The **internal division** shall handle violations of manufacture, sale and distribution within the United States, its headquarters at Washington handling those involving business between different parts of the United States or two or more local districts, and the local divisions those occurring wholly within their respective districts.

The **customs division** shall handle smuggling violations by land and at regular ports of entry.

The **coast guard division** shall handle smuggling violations by water outside such ports.

Each of these divisions, local and national, shall always work in perfect co-operation to secure evidence and obtain maximum enforcement.

Use Aides Earnest for Success

To carry on the Bureau's work, the Secretary shall select as commissioner, assistant commissioner, deputies, chiefs of divisions and district commissioners, **only men sincerely believing in the 18th Amendment, earnest for its success, of unquestioned integrity, loyalty, courage and intelligence, trained for the work they must do and above political influence.**

Likewise he shall choose throughout the Bureau employees with **like qualities of character,** if possible; and for the intelligence, investigation and storekeeper divisions and the enforcement section, **courageous, keen, resourceful** individuals who, as all others for skilled or technical work, shall be chosen because of their special fitness for their positions.

The foregoing plan of organization, **heading up from the local districts directly to the President,** with **responsibility always definitely located** and the same organization and methods followed throughout the country, and carried on with the personnel outlined, will make the 18th Amendment effective, and **remove any basis for the well-known slogan—"Can't be enforced."**

IF ARMED, DOUBLE PENALTIES

A. L. Yeaton
Police Officer, Concord, New Hampshire

THE following is the only way the United States can be dried up:

1. **Enforce the padlock law to the limit.**
2. Punish alien smugglers, rum runners and bootleggers with a fine of $1,000 and five years in prison. At the expiration of sentence, **deport.**
3. If offenders are **American citizens give them double the penalty for aliens.** Compel hard labor during prison terms.
4. For **intoxication** impose a fine of $25 **and** a year in prison.
5. For **possession** of illegal liquor fine $50 **and** two years.
6. For being armed when arrested double all penalties.
7. **Allow no sentences to be suspended.**
8. **Allow no pardons.**
9. Officials of whatever rank who are found guilty of violating should be fined $5,000 and sent to prison for 25 years, the first year in solitary confinement and the rest at hard labor.

Will the Republican Party Be Put Out of Power If It Enforces the Law and Upholds the Constitution of the United States?

TELEGRAMS EXCHANGED BETWEEN W. C. DURANT AND W R.. HEARST

1. Mr. Hearst to Mr. Durant

January 1, 1929

WE do not have to make the American people law-abiding. We only have to keep them law-abiding.

And the best way to keep them law-abiding is not to make laws which very large and reputable elements of the community consider unwise, unjust, un-American and in violation of their fundamental rights as free citizens.

I do not believe that prohibition ever will be or ever can be enforced, and I do believe that, if a violent effort is made to enforce it during the next four years by the Republican Administration, the next President of the United States will be a Democrat.

Smith's candidacy proves nothing except that the people did not want Smith.

Nor would the personal liberty issue have won in this campaign with any candidate.

But after four more years of snooping, spying, keyhole-peeping and interference with fundamental rights and liberties by fanatics and professional busybodies, the country will be ripe for a revolution against un-American conditions of this oppressive and offensive kind.

The opposition to prohibition is not merely by people who want to get drunk.

Prohibition is opposed by such temperance influences as the Church Temperance Society of the Episcopal Church and the Hearst newspapers—I modestly put the Church

Temperance Society of the Episcopal Church first. The reason for this opposition is that prohibition is a failure as a temperance measure.

The more we try to enforce it, the greater failure it becomes as a temperance measure, because the only thing we can absolutely prevent traffic in is bulky drinkables like wines and beers; and these contain the least amount of alcohol, and are consequently the least harmful.

It never has been possible and never will be possible to prevent traffic in compact and concentrated alcoholic drinks; and even if the traffic could be interfered with, every man could make these in his own cellar if he should want to.

Furthermore, we must not make the mistake of thinking that the country is divided into two classes—drys, who want to make the country bone-dry, and wets, who want to make the country souse-wet.

There is an enormous middle class, which probably is a majority class, who believe in temperance and believe in personal liberty, and realize that temperance can be secured without prohibition, and never can be secured with prohibition.

These people do not want to be ruled by the liquor interests, nor, on the other hand, by the bone-dry fanatics.

Sooner or later they are going to assert themselves, and, personally, I think it will be sooner.

Prohibition has been repudiated by every country which has ever tried it, primarily because it did not accomplish the thing it was supposed to accomplish, and, secondarily, because it became such an unpopular measure that no government could stand up under it, not even firmly intrenched monarchical governments.

Therefore, I think that in offering a prize on how best to enforce prohibition, Mr. Durant is really offering a prize on how best to put the Republican Party out of power.

And I think Mr. Pinchot has actually won the prize, because his plan, being the most un-American and the most obnoxious, will make the Republican Party more unpopular than any other plan which has been proposed.

I did not mean to say in my previous telegram that education would get the 18th Amendment obeyed.

I meant to say that education would promote a desire for

temperance; but any sincere and intelligent desire for temperance will undoubtedly mean the repeal or material modification of the 18th Amendment.

I consider the 18th Amendment not only the most flagrant violation of the basic American principle of personal liberty that has ever been imposed on the American public, but the most complete failure as a temperance measure that has ever been conceived and put into impractical operation.

Therefore, I would like to offer, and hereby do offer, a prize of twenty-five thousand dollars for the best plan to repeal the 18th Amendment and substitute in place of prohibition a more liberal and more American measure, which will secure for the public more genuine temperance, with less offensive interference with the fundamental rights and personal liberties of the citizen.

W. R. HEARST

2. Mr. Durant to Mr. Hearst

January 2, 1929

FIRST, let me congratulate you upon your prize offer of $25,000 for the best plan to repeal the 18th Amendment.

Neither you nor any other giant publisher ever performed a more notable service than this contribution of yours to the question: Are the American people ready to give up and admit the failure of this, the greatest experiment ever undertaken by a free people?

Your prize contest furnishes the rallying point for those who are ready to admit defeat and want the 18th Amendment repealed.

My contest furnishes a rallying point for those who are not ready to admit defeat but want an honest attempt made to enforce the law.

You say that in offering a prize on how best to enforce the 18th Amendment "Mr. Durant is really offering a prize on how best to put the Republican Party out of power."

It will be news to the Republican Party to learn that it will be put out of power by enforcing the highest law of the land—the Constitution.

The Republican Party, as a matter of fact, has just won

an unprecedented political victory on a platform whose chief issue was **enforcement of the 18th Amendment.**

The principal appeal of the Democratic candidate was his promise to use his high office to urge a relaxation of the liquor laws. Against that appeal millions of votes were massed by men and women determined to suffer no concession to the liquor traffic.

You say that you believe that there is "an enormous middle class, which probably is a majority class, who believe in temperance and believe in personal liberty and realize that temperance can be secured without prohibition, and never can be secured with prohibition."

In a disgraceful situation such as now confronts this great country of ours we have the right to ask of every intelligent citizen an answer to the following: **"Are you for the bootlegger, the speakeasy, and law defiance; or are you for the government, the Constitution, and law observance?" With respect to the above, there can be no "middle class."**

It seems to me that the sentiment of the people on this question is expressed by the voting of Representatives they send to Congress, where the liquor laws must be modified, if at all.

Each succeeding Congress is drier than the last. Out of 96 members of the Senate, 80 are dry. Of the 435 members of the House, 329 are dry. Among the cities in the last election which turned from the frank liquor appeal of the Democratic candidate and gave their votes to Herbert Hoover, were Chicago, Philadelphia, Detroit, Baltimore, Pittsburgh, Los Angeles, Buffalo, and Cincinnati.

If the Republican Party was swept into power by its promise of law enforcement, how can it be "put out of power" by carrying out its pledge?

I can not believe that, pending repeal, you countenance nullification of part of the Constitution by non-observance and non-enforcement, turning the country over to the organized bootleggers, hijackers, political corruptionists, and murder gangs now rampant.

I believe that great good will come out of the public interest and public discussion stimulated by your prize offer. Of course, in the strict sense of the word, the only possible "plan to repeal the 18th Amendment" is already in exis-

tence, embedded in the Constitution of the United States.

Once an amendment to the Constitution has been solemnly enacted into law it can only be repealed by a vote of two-thirds of each House of Congress, this vote to be ratified by the legislatures of 36 of the 48 states of the Union.

It is highly important to know what the people think. My contest brought out part of the answer. I am sure yours will bring more of it.

It is a striking fact that the 18th Amendment was ratified by all but two States. No amendment to the Constitution ever had such a large vote in Congress, was ratified by so many state legislatures, or was ratified in so short a time. We have every reason to think that the American people meant business against the liquor evil and that they mean business still.

For the necessary changes in the enforcement laws we need facts, as President-elect Hoover says. Therefore, I have suggested a congressional committee to find out what is the matter with the working of our enforcement laws. I have offered to that committee the abundant material in our files, contributed by the 23,000-odd contestants who wrote what they thought should be done. No doubt your contest will contribute a similar mine of material.

I hope that your great influence will be used to secure a congressional investigation.

I am no fanatical dry. I am for law enforcement. If we can't enforce this law, I will be with you for its repeal. But first I want an honest effort to induce the decent people to observe it and force the criminal class to obey it.

W. C. DURANT.

3. Mr. Hearst to Mr. Durant

January 2, 1929

I RECEIVED your telegram and enjoyed it. We are not so far apart as might seem at first glance.

At least we are not far apart in some phases of the problem we are discussing. You are in favor of temperance; so am I.

I do not know how long you have been interested in the temperance movement, and how and to what extent you have crusaded for temperance.

Lest you should say the same thing about me, let me hurry to state that I have been a crusader in the temperance movement for something over forty years; and I have printed an enormous number of editorials and cartoons attacking the saloon and the dispensation of hard liquors.

That these editorials were at least considered effective propaganda may be indicated by the fact that many of the temperance organizations of the country asked leave to distribute them and did distribute many of them widely.

Therefore, I can assume, I think, that we are both equally sincerely interested in the cause of temperance; and the only difference between us is a difference of opinion as to what is the best means of promoting that cause.

You apparently believe that prohibition is an intelligent and practicable effort to promote temperance. I do not believe that it is.

Our objective being the same—temperance or even total abstinence—our difference is merely one of method.

I admit that I never did believe that prohibition would be effective as a temperance measure, for the reason that from the first it seemed inevitable, considering the character of our people, that a campaign of force would not be as effective as a campaign of education.

As I said in a previous telegram, paraphrasing a familiar quotation, you can lead the American people to water, but you cannot make them drink it.

Furthermore, my fight had been chiefly against hard liquors, and it seemed to me from the first that it would be easier for the law-defying element to deal illicitly in hard liquors than in the milder and bulkier form of alcoholic drinkables.

This opinion seems to have been borne out by the facts; and I think it can be truthfully said today that any man who wants a drink can get one; and about the only difference between the present condition and the condition preceding prohibition is that a man who wants a mild drink is compelled to take a strong one; and a man who wants a good drink is compelled to take a bad one.

It is true that saloons have been closed, but saloons were being closed before prohibition was enacted, being closed through the education of the public, through a high rate of

excise taxation, through local option and through direct legislation.

Since prohibition, for every saloon that has been closed there is either a still or a speakeasy or a bootlegger supplying the most vicious and injurious kind of liquor that it is possible to concoct or conceive of.

You ask is anybody in favor of the bootlegger and the speakeasy? The obvious answer is—

No, nobody is, except possibly the bootlegger and the proprietor of the speakeasy.

Some of the public are sincere enough and clear-thinking enough, however, to be opposed not only to the bootlegger and the speakeasy, but to the condition which creates the bootlegger and the speakeasy.

You ask if anyone is opposed to the Constitution and the law?

Nobody except the criminal class.

But some of the public are sufficiently intelligent to realize that, when supporting the Constitution as a whole, they are also supporting that clause of the Constitution which permits the modification by amendment of that document's provision; and that it is just as much within the rights and liberties of the people to take prohibition out of the Constitution as it was within their rights and liberties to put it in, in order to see how it would operate.

You intimate that prohibition has not been given a sufficient trial or a sufficiently fair trial.

It has been tried for ten years.

And I think the facts will justify the statement that there are more bootleggers today than there ever have been during the past ten years of trial;

And that there are more speakeasies today than there ever have been during those ten years;

And that there is more hard liquor and bad liquor being distributed today than there ever has been during those ten years;

And that there are more criminals being created today by the liquor traffic than there ever have been during those ten years; and that those criminals, brought up and educated in law-defiance by the liquor traffic, have become de-

fiant of all other laws and have become menaces to society in many other fields of dishonest endeavor.

There is no use preaching, as we all do, that "crime does not pay," when it so obviously does pay—and pays big enough dividends to provide for the creation and employment of gangs of gunmen and thugs and murderers and bootleggers and hi-jackers, many of whom have become rich and consequently almost respectable; and all of whom are as earnestly, if not as conscientiously, in favor of prohibition, as you, sir, or any other of that measure's honest advocates.

You say that those who are in favor of the repeal of the 18th Amendment are willing to admit defeat.

Not at all.

They are only willing to admit facts, and to call for a more intelligent and more successful plan which will lead them more surely to victory.

You imply that the Republican Party has just won its unprecedented political victory on the prohibition issue, and that the principal appeal of the Democratic candidate was his promise to use his high office to urge a relaxation of the liquor laws.

The Republican Party no more won a victory on the prohibition issue than the Prohibition Party ever won a victory on the prohibition issue.

My contention is, and was during the whole campaign, in which I supported Mr. Hoover, that the liquor issue was not an issue at all in a federal campaign, and that the President could do nothing to relax the liquor laws, and that Mr. Smith was making a false appeal which no intelligent voter should pay any attention to.

Charles Evans Hughes, formerly Supreme Court Justice of the United States, and fairly familiar with the laws of the land and the legitimate issues of the campaign, took the same view.

There were genuine issues in the last campaign—such as the maintenance of the high degree of prosperity which had prevailed under a Republican administration—and the voters had sense enough to recognize them.

You say that out of ninety-six members of the Senate

eighty are dry and that out of four hundred and thirty-five members of the House three hundred and twenty-nine are dry.

I would like to say, if it is not disrespectful, that many of them are dry intermittently as it were, on the installment plan, and that their highest point of desiccation is reached during or immediately preceding a political campaign.

However, that has only an indirect application to the merits of prohibition as a temperance measure.

I am against prohibition for the same reasons that the Church Temperance Society of the Episcopal Church states that they were opposed to prohibition—because it has set the cause of temperance back twenty years;

Because it has substituted an ineffective campaign of force for an effective campaign of education;

Because it has replaced comparatively uninjurious light wines and beers with the worst kind of hard liquor and bad liquor;

Because it has increased drinking not only among men, but has extended drinking to women and even to children;

Because the most nearly universal Christmas presents displayed in the shops, the department stores, the drug stores, and practically in every emporium, during this Christmas season of good will to mankind, were the hip-flasks and cocktail-shakers.

I am opposed to prohibition because it has created more, and more skillful, and more highly remunerated and more dangerous criminals;

And because it has corrupted our forces of law-enforcement, and to a certain degree even our judges;

And because it has made pretenders and falsifiers out of so many of our public officials.

I am opposed to prohibition because it has instituted in the Government un-American methods of spying and sneaking and snooping and keyhole-peeping;

And because prohibition fanatics, not content with that, are trying to have the Government go further and institute a secret police system, and a system of repression and oppression almost equal to that which wrought the ruin of the Russian Government.

What has become of our cherished American freedom of action, our boasted American personal liberty?

All that we held dear in our political system, as well as in our individual independence, has been sacrified to a fetish.

Any sacrifice might be justified to further a great cause; but prohibition has not furthered the cause.

It has hindered the cause.

It has created intolerable criminal conditions, and intolerable political conditions.

And it has done nothing after ten years' trial to advance the cause of temperance, in which you and I are both sincerely and deeply interested.

Therefore, I think the time has come to call for another plan, a better plan, a more practical plan, which will advance the cause of temperance, and will not merely promote crime, discredit law, demoralize the citizenship and prostitute the public service.

W. R. HEARST

4. Mr. Durant to Mr. Hearst

January 3, 1929

THE case for the abandonment of the 18th Amendment will never be more effectively presented than in your message to me of January 2nd, published in the Hearst papers of January 3rd. I only wish that your powerful pen and the great influence of your newspapers were arrayed, instead, on the side of liquor-law enforcement.

You offer a prize of $25,000 "for the best plan to repeal the 18th Amendment and substitute in place of prohibition a more liberal and more American measure which will secure for the public more genuine temperance." If, as a result of your prize contest, a plan having your approval is evolved and made a part of the Constitution and becomes a law **you will, of course, expect that your law will be observed.** Widespread violation of your law by a large percentage of the people would result in much confusion and disorder—exactly the condition which now concerns every intelligent, thoughtful citizen. **I do not believe that a government can exist that does not enforce its laws. Consequently, I am for law enforcement.**

Those who are opposed to prohibition have every right to agitate for the repeal of the Amendment, just as every citizen has the inescapable obligation to obey that Amendment and the laws for its enforcement, so long as it remains a part of the Constitution.

I believe it is impossible to escape the logic of Herbert Hoover's statement in his acceptance speech:

> "Modification of the enforcement laws, which would permit that which the Constitution forbids, is nullification. This the American people will not countenance. Change in the Constitution can and must be brought about only by the straightforward methods provided in the Constitution itself.
>
> "There are those who do not believe in the purposes of several provisions of the Constitution. No one denies their right to seek to amend it. They are not subject to criticism for asserting that right. But the Republican Party does deny the right of anyone to seek to destroy the purposes of the Constitution by indirection. * * *
>
> **"Crime and disobedience of the law can not be permitted to break down the Constitution and laws of the United States."**

It is idle to deny that, particularly on the part of the "better classes," there is today widespread disobedience of the liquor law as embodied in the Constitution. For that condition, I am ashamed to say, the business leaders of the country bear a heavy responsibility.

Bootleg liquor has become the most widely advertised factor in the social life of men whose names are synonymous with success, wealth, and power in their communities. The contagion of their lawlessness spreads through the entire population. This means impairment of the carefully built safeguards of personal and property rights. Citizens who have the largest stake in law observance have taken the lead in law defiance.

I believe that this is a phase that is already passing. I believe that our business leaders are ready to rally behind the leadership of Herbert Hoover for the law. I believe they are going to stop teaching criminals that the "best

people" obey the law **when it suits them,** and not otherwise.

I am confident that Mr. Hoover is going to give this kind of leadership. I believe that, for the first time, we are going to see the Government proceed against the bootleg industry with a wholly honest and effective enforcement service in all departments whose duty it is to deal with the liquor evil. In other words, I think that the law is at last going to have a fair trial.

I am unable to agree with you that prohibition is a failure as a temperance measure.

I myself, as a manufacturer, know the vast difference in the efficiency of workmen since the 18th Amendment. That efficiency has been passed on to them in the rewards of higher money wages. Nobody can measure the increase in happiness in American homes due to the abolition of the saloon and the legalized liquor traffic.

The mass of the American people, who do not get into newspaper headlines, have become the most sober, contented, and prosperous people on earth. No less an authority than Herbert Hoover says that a good part of the country's prosperity is due to prohibition. In his speech to the Y. M. C. A. in Washington, he said:

> "Our country is in the midst of an astonishing increase in wealth and of its wide diffusion among the whole people. The application of the many discoveries in the physical sciences, the increase in efficiency both in workers and executives, the elimination of industrial waste, **and the advent of prohibition, have raised our standards of living and material comforts to a height unparalleled in our history, and therefore the history of the world."**

Mr. Hoover has been quoted as saying that 10 per cent of our national efficiency is due to prohibition. We have a national income of $90,000,000,000 a year. If prohibition is annually responsible for $9,000,000,000 of this, it is hardly a "failure."

Both of us desire a sober nation, since our prosperity and happiness depend fundamentally upon sobriety. While we differ concerning means of realizing that end, I am quite convinced that out of the discussions of the thousands

of plans submitted in the Durant prize contest and the thousands that will unquestionably be entered in the Hearst contest, there will come a volume of information that will do more toward educating the people of the nation on this great question than any other single campaign of which I have knowledge.

W. C. DURANT.

THE STORY OF THE PRIZE CONTEST

WHEN the prize offer was published, answers poured in from every state and territorial possession and from every type of locality and person. One reader, through whose hands only a small part of the 23,230 plans passed, jotted down the following vocations:

Mothers and wives.
Congressmen.
State representatives.
Federal judges.
United States district attorneys.

Officers of the Army, Navy, Marine Corps, and Coast Guard.
American consuls.
Bureau chiefs.
Scientists in government employ.
United States marshals.

Enforcement officers.
Secret-service men.
Postmasters and railway mail clerks.
Ex-governor.
Judges of state supreme courts.

State attorney-generals.
Judges of lower courts.
Prosecuting attorneys.
Clerks of courts.
Legislators and other state officials.

Sheriffs.
Coroners.
Chiefs of police.
Policemen and policewomen.
Deputies, constables, and policemen.

Justices of the peace.
Wardens of prisons.
Presidents of universities.
Deans of colleges.
Professors.
School superintendents.

Principals of high schools.
Headmasters of private schools.
Instructors and teachers galore.
Bishops.
Clergymen of many denominations.

Officers of the Salvation Army.
Heads of hospitals.
Surgeons, physicians, and research men.
Bankers.
Manufacturers.

Merchants.
Salesmanagers.
Engineers.
Chemists.
Architects.

Electrical experts.
Lawyers.
Authors.
Editors, correspondents, and reporters.
Advertising men.
Publishers.
Psychologists.

Shipmasters.
Pharmacists.
Trainmasters, dispatchers, conductors.
Certified public accountants.

Bookkeepers.
Court reporters.
Executive secretaries.
Private secretaries and stenographers.

Clerks and floorwalkers.
Janitors.
Cigar makers.
Tailors.
Milliners.

Window dressers.
Trained nurses.
Dieticians.
Lumbermen.
Railroad employees.

Miners.
Farmers and stockmen.
Officers of farmers' organizations.
Officials of labor unions.

Leaders of the Women's Christian Temperance Union, Anti-Saloon League, Women's National Committee for the Enforcement, and other organizations supporting prohibition.

People occupying high places in various secret, fraternal, and benevolent orders.

Officers or members of sororities and women's clubs and societies.

Officers of the Grand Army of the Republic, Veterans of Foreign Wars, American Legion, and other patriotic organizations of ex-soldiers.

World-Wide Contributors

Plans of convicts were balanced by plans from college presidents. The theses of New York business men were paralleled by contributions from a minister-missionary living on the Gold Coast of Africa; a physician living high in the Pyrenees; the son of a Chicago saloon-keeper; former state attorney-generals; a fourteen-year-old school girl who discussed with deep conviction conditions prevailing in the South twenty years ago; the owner of a German factory; an eighty-two-year-old New Hampshire lady who sternly advocated the whipping-post, and so on, endlessly.

Over 100 plans were received from foreign countries, although only citizens were eligible to compete. One was from a general in the Brazilian army. Another was written by an official in China. A number of Japanese competed. Paris and France were well represented. Other plans came from England, Germany, Italy, Holland, Sweden, Norway, Denmark, Rumania, Australia, Austria, Bermuda, Brazil, Canada, Haiti, India, Mexico, Poland, Persia, and Spain. Many were written in foreign languages. Missionaries in Africa, Asia, and Oceania contributed.

A Cuban would have propaganda to show how foreigners ridicule the United States on account of its lawlessness.

A Bolivian would give rewards to those who tell of lawbreakers; take licenses away from ships and automobiles found to contain illicit liquor; give special prizes to policemen who detect citizen violators; and imprison bootleggers three years.

A Peruvian would recognize that the solution must start with the family, would hold parents responsible for minors' offenses, and have equal penalties for women.

A Frenchman would have citizens recognize that the best

way to suppress is to replace and would have wine replace ardent spirits.

The Committee of Award

Fifteen accepted Mr. Durant's invitation to serve on the committee of award. Nine participated in the final reading of 20 plans and in the selection of the two winners. They were:

Chairman, W. O. Thompson, President Emeritus, Ohio State University and Moderator of the Presbyterian General Assembly, Columbus, Ohio.

Secretary, William H. Allen, director of the Institute for Public Service, New York.

George Gordon Battle, attorney, New York.

Dr. S. Parkes Cadman, minister, editor, radio teacher, Brooklyn (by proxy).

Maj. Gen. James G. Harbord, President of the Radio Corporation of America, New York.

Robert L. Owen, former United States Senator from Oklahoma.

Owen Roberts, attorney and special United States Counsel, Philadelphia.

Elmer Schlesinger, attorney, New York (by proxy).

G. P. Whaley, President of the Vacuum Oil Company, New York.

The following were unable to attend for various reasons:

Jane Addams, Hull House Social Settlement, Chicago, because of illness; United States Senators Borah and Glass were detained in Washington by legislative duties; Bruce Barton, advertising specialist and author, New York, was unable to return to the city in time; William G. McAdoo, former Secretary of the Treasury, had unavoidable appointments in California, but specified principles which he felt should be followed; Dr. Stephen S. Wise, rabbi and lecturer, New York, was unexpectedly called to Europe.

On December 20th the committee of award met. The plans before them bore no distinguishing marks. The names and addresses of the contributors were in sealed envelopes without knowing who the two winners were, preferring to learn, as the public would learn, from the newspapers the day after Christmas.

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